

Before the Independent Hearing Panel
Appointed by the Central Otago District Council

Under the Resource Management Act 1991

In the matter of Private Plan Change 14 to the Central Otago District Plan

Supplementary evidence of Brett James Giddens

25 May 2020

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Introduction

- 1 My name is Brett James Giddens.
- 2 I have prepared a statement of evidence dated 13 May 2020. My qualifications and experience are set out in that statement. I confirm that this supplementary evidence is also prepared in accordance with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014.
- 3 In this Supplementary Evidence I have been asked to consider the expert planning evidence produced on behalf of the following witnesses:
 - (a) Ms Lynette Wharfe on behalf of HortNZ;
 - (b) Mr Kyle Balderston on behalf of the Otago Regional Council; and
 - (c) Ms Julie McMinn on behalf of the New Zealand Transport Agency.
- 4 In addition, I have been asked to consider the evidence of Mr Werner, and Mr Roger Gibson (for HortNZ) where relevant to planning.
- 5 I have set out my supplementary under the following headings, reflective of issues raised in the evidence:
 - (a) Amended Provisions and Structure Plan;
 - (b) Cromwell Masterplan and Spatial Framework;
 - (c) Connection / Integration;
 - (d) Demand;
 - (e) Soils;
 - (f) Horticulture Block;
 - (g) Lot Size Terminology and National Planning Standards;
 - (h) Consultation; and
 - (i) Regional Policy Statements.

Amended Provisions and Structure Plan

- 6 A number of amendments have been made to the PC14, as set out in my evidence in chief. I have taken into account the evidence of the submitters and have recommended some further amendments. I set these out as follows:

- (a) A reduction in density across the site, generally focused over the areas identified by Mr Gibson as having Waenga 5 soils. In these areas, minimum lot sizes have been increased from 2,000m² or 3,000m² to 4,000m²;
- (b) An additional requirement for the Rural Lifestyle Areas (RLA) 2, 3 and 4 areas (minimum 3,000m² to 1 hectare) to identify an area comprising at least 50% of the site to be utilised for horticultural or agricultural activity.¹ The requirement is one of the matters to be identified on the landscape plan required as part of consent for residential activity;
- (c) A requirement at subdivision consent for identification of building platforms² for dwellings and accessory buildings in RLA 2 and 3 (in addition to the previous requirement for building platforms in RLA 4 and 5). The building platform must not exceed 1,000m²; and
- (d) Amendment to the Planting Schedule, undertaken by Mr Milne, to include a greater number of species with horticultural value.

7 I understand that a mark-up of the Structure Plan, showing the revised minimum lot sizes in relation to Waenga 5 soils, overland flow paths and site contours, will be provided to the commission prior to the hearing.

8 The purpose of the amendments in paragraph 6 (a) and (b) is to help maintain productive values and capacity of the PC14 land resource, and to enable, on an ongoing basis, the use of significant portions of each of the sites in RLA 2, 3, 4 and 5 for productive use. The intention of the change in paragraph 6 (c) is to limit built form and to locate it within each site to enable horticultural or agricultural activity on the remainder of the site. A new matter of control is included to reflect this intent.³

9 I agree with Mr Balderston (for the ORC) where he states at paragraph 13:

13. I also anticipate that in relation to Air Quality issues, should the plan change be approved, incorporating suitable notation to both inform house builders and ensure only Low Emission Air Burners are installed in the new development could be relatively easily dealt with by way of the appropriate standards or advisory notes applying in the plan change text, to require low or no emission heating, by reference to the Otago Air Plan requirements."

10 As I have set out in my evidence in chief, compliance with the Otago Air Plan must be achieved unless resource consent is obtained otherwise. I do not consider a

¹ 4.7.2(ib)(e) bullet point 2

² 4.7.2(ii)(a)(vii)

³ 4.7.2(ii)(a)(vii) – matter of control (4)

specific provision is needed to be included in the provisions, but would not take issue with such provision if the commission was consider it necessary.

Cromwell Masterplan and Spatial Framework

- 11 Mr Murray provided a thorough overview of his take of the Masterplan from his experience as a community board member. I agree with him that this process was informed by community feedback and is a useful gauge in that regard. I also agree that the Masterplan's focus was not on land outside of the Cromwell Township, rather its focus was on internal consolidation
- 12 Importantly, the Masterplan has not been subject to any statutory process which tests its principles and directions in light of the RMA process. For instance, my reading of the Masterplan is that it is seeking to consolidate urban development within the confines of the Cromwell Township, meaning that the areas zoned Large Lot Residential would inevitably be "infill" sites if you followed the principles of the Masterplan through to the District Plan review or private plan changes.
- 13 Mr Murray agrees with my consideration of the Masterplan as I have presented in my evidence in chief in that it has little weight. While also sharing this view, Ms Wharfe, Mr Balderston and Ms McMinn have commented on the Masterplan, but giving it what I consider to be a considerable amount of weight to inform their opinions. In the context of PC14, it has little relevance in both context and statutory weight.
- 14 Ms Wharfe states that "the MasterPlan does not identify rural lifestyle development in Ripponvale as sought in PC14".⁴ This statement is correct as rural lifestyle development was not a consideration of the Master Plan. In regard to its context, the Masterplan helpfully directs that a method of its implementation (page 61) includes private plan changes. PC14 has done exactly this and followed the correct statutory process under the RMA.

Connection / Integration

- 15 Mr Balderston, Ms Wharfe and Ms McMinn raise issues with the lack of connection and integration of PC14 to Cromwell. Their opinions, like Mr Whitney, have approached this issue from the starting point that PC14 is "large lot residential" and not rural lifestyle.
- 16 In terms of integration, it would be very hard to achieve rural amenity (or indeed, maintain or enhance rural amenity) in a location that is fully integrated with the Cromwell urban centre, as seems to be suggested. As set out in the evidence of

⁴ Paragraph 6.21

Mr Milne, rural amenity and rural character are important facets of the site, locale and indeed PC14 through its stated purpose.

- 17 Mr Balderston considers that PC14 "...responds well to the specific constraints and opportunities *within* the site and is technically appropriate (safe and stable building platforms able to be serviced by urban infrastructure) but is not a good fit within the broader spatial context".⁵ I agree with Mr Balderston, with the exception of his comment about PC14 not being a good fit with the broader spatial context. He has considered PC14 as a large lot residential development, which primarily relates to an urban environment, and not a rural living development that requires a rural setting.
- 18 PC14 will be connected into the CODC's infrastructure network (water and wastewater) that directly passes by the site. The fact that there is existing infrastructure in this location and the ability for this connection to be made without adverse effect indicates to me that PC14 is appropriately located in terms of infrastructure, and gives effect to Policy 4.5.2 under Objective 4.5 of the Partially Operative RPS (2019). Notably, with land use change in growth and development planning, Policy 4.5.2 (c) is directive towards the coordination of the "design and development of infrastructure". In my opinion, taking into account the location of the CODC's existing infrastructure, it is logical that the land encompassing PC14 should be considered for further development.
- 19 This is supported by Mr Balderston where he states at his paragraph 12:
- "12. I accept that the information provided by the applicant in relation to infrastructure and 'buildability' shows that from a purely technical basis, issues such as wastewater, water supply, electricity and telecommunications, road traffic (motor vehicle) capacity and geotechnical and hazards (including flooding issues) are able to be appropriately dealt with by way of specific new rules and/ or application of the existing District Plan, or CODC Code of Practice standards for subdivision, as appropriate.*
- 20 Mr Balderston refers to the Otago/Southland Regional Land Transport Plan 2018 from paragraph 71. We are in agreement that the two relevant policies have been identified. Where we are in disagreement is whether PC14 gives effect to these policies. In reliance on Mr Carr, I retain my opinion that these policies are achieved.
- 21 Ms Wharfe discusses the integration of PC14 at part 15 of her evidence, noting that HortNZ is concerned about the location of the site being on the opposite side of SH6, holding the view that if the area is rezoned it will become a "remote

⁵ Paragraph 8

satellite residential enclave primarily reliant on private vehicles for travel” (paragraph 15.2). She notes at 15.3 that HortNZ also supported a submission by Otago Regional Council which considers that SH6 provides a logical boundary and is a strong barrier to integration. Again, this conclusion appears to be based on both Ms Wharfe and Mr Balderston’s view that PC14 is an urban, residential development. This difference in how PC14 has been considered (i.e. rural living versus large lot residential) is reflected in the assessment of Objective 4.5 and its associated policies under the Partially Operative RPS (2019).

- 22 PC14 is not “urban development”. It is development and to does constitute growth for rural living activity, which includes residential activity. I have considered Objective 4.5 and its associated policies in this context.
- 23 It is clear in my view that PC14 could not be achieved in the urban context as it would be devoid of the rural associations that fundamentally underpin the provisions and its purpose.
- 24 In relation to connection for walking and cycling, Mr Carr considers that the site is within cycling distance of Cromwell, but is beyond a routine walking distance. Mr Gattenby (for NZTA) considers⁶ that the site is close enough to Cromwell for both walking and cycling to be an attractive alternative mode of travel. The key issue is the connection over the state highway.
- 25 For the reasons set out in my evidence in chief and above, I disagree that the state highway provides a “strong barrier” to integration. It seems that if the state highway was considered as a barrier, then solution mooted by all traffic experts and Ms McMinn would be an underpass. While I support Mr Carr’s opinion that PC14 does not warrant this solution⁷, an underpass could be an option that is further discussed with the NZTA and the CODC.
- 26 In my opinion, PC14 integrates effectively with the nearby urban environment of Cromwell and there is no integration issue when PC14 is properly considered as a rural lifestyle development. The site is closer than many of the residential zones that fall outside of the Cromwell centre. There is full agreement between the experts that development can be readily serviced. Although travel by vehicle requires crossing the state highway, no capacity or safety issues arise.

Demand

- 27 Ms Wharfe in section 10 of her evidence takes issue with the terminology used in Ms Hampson’s supply and demand assessment. Ms Hampson has responded to those matters in supplementary evidence. Notably, Ms Hampson confirms that her

⁶ Paragraph 7.1 of Gattenby Evidence

⁷ Paragraph 27 of Carr Supplementary Evidence

“conclusions on demand and supply and the relevance of PC14 do not hinge on the terminology used”.⁸

28 As I have stated in my evidence in chief, I consider that too much has been made of differences in terminology used and in effect, the sought outcome of PC14 has been overlooked.

Soils

29 Ms Wharfe, relying on the evidence of Mr Gibson, and Mr Balderston have raised issues with regard to the loss of productive land.

30 Mr Gibson identifies that a portion of the site contains Waenga 5 soils and that, in his opinion, these soils are “high class soils”. The terms “high class soils” reflects Policy 5.5.2 of the Operative RPS (1998) and is defined in that RPS.

31 I am not qualified to comment on technical matters relating to soil, but I will respond to some of the comments provided by Mr Gibson that are relevant to my planning considerations.

32 While Mr Gibson’s categorisation of the soils was based on his own approach to evaluating significance, I agree that the soils he has identified could be of higher productive value in the local context and rely on the supplementary evidence of Mr Larsen in this regard.

33 Ms Wharfe’s approach generally seems to be that all use of the Requestor’s land should be for horticultural activity and any non-rural development should be avoided. I do not consider that this is realistic, nor required under the Regional Policy Statements.

34 Mr Gibson confirms throughout his evidence the importance of water to production, as does the Leamy and Saunders 1967 documentation he relies on in forming his opinions. Mr Gibson assumes that irrigation is available over the entire PC14 site.

35 Mr Larsen has considered the constraints on the land that is Waenga 5, identifying that part of the area is unsuitable for cherry orchards because it is located in an overland flow path.⁹ Part of the Waenga 5 area is also constrained by topography¹⁰ and shape¹¹, susceptible to high wind¹², and constrained by water.¹³ Access to water is critical for commercial orchard operations and the cherry orchard

⁸ Paragraph 10 of Hampson Supplementary Evidence

⁹ Paragraph 7 of Mr Larsen’s Supplementary Evidence

¹⁰ Paragraph 8 of Mr Larsen’s Supplementary Evidence

¹¹ Paragraphs 11 and 12 of Mr Larsen’s Supplementary Evidence

¹² Paragraph 9 of Mr Larsen’s Supplementary Evidence

¹³ Paragraph 14 of Mr Larsen’s Supplementary Evidence

expansion utilises the available water on the PC14 site. Mr Larsen concludes that the “productive potential of the remainder of the site is therefore limited”.

- 36 In regard to Policy 5.5.2 of the Operative RPS (1998), I do not consider that the soils meet the definition of “high class soils”. It doubtful that the soils could have this classification given the available water, being a fundamental attribute to primary productive capacity recognised by Mr Larsen, Mr Edwards and Mr Gibson for HortNZ.
- 37 Mr Gibson at 10.21 considers that with 4,000m² lot sizes “roughly 50%” of the “high class soils productive capacity” will be lost (or on the flipside, 50% retained). The amended proposal which increases the majority of allotments within the Waenga 5 soil area from 2,000m² to 4,000m² means that through Rule 4.7.1 (ib) (d), a large area of these soils will be retained and set aside for horticultural or agricultural uses, minimising the loss of productive soils. A small area of 2,000m² lots is still proposed but in an area of the site which Mr Larsen considers is unlikely to have productive value due to a range of other factors.
- 38 Notably, the land itself is a resource for more than its productive value and capacity, which has been overlooked in the assessment by Ms Wharfe.

Horticulture Block

- 39 Ms Wharfe and Mr Balderston have discounted the planting and use of the “Horticulture Block” for productive land uses because the activity is permitted under the current zone rules. This approach was also taken by Mr Whitney in his section 42A report.
- 40 What I believe has been overlooked is the fact that a permitted activity, as a method in a plan, does not *require* an activity to occur. It is therefore by no means certain. In this regard, the benefit of the horticulture land use is not recognised. PC14 enables that land use to be recognised through proposed Rule 4.7.2 (ib) (c). In effect, the positive aspects of the use of the land for productive activity, which is recognised through objectives and policies in the Regional Policy Statements and District Plan and echoed throughout the submitter’s evidence, will result from the implementation of PC14.
- 41 Objective 5.3 of the Partially Operative RPS (2019) requires that sufficient land is “managed and protected for economic production”. This is what I understand to be the only objective in the collective RPSs that refers to “economic production”. In my opinion, the horticulture block achieves this function precisely – it will be established, managed and protected for economic production as part of NZ Cherry Corps wider operation.

Lot Size Terminology and National Planning Standards

- 42 Ms Wharfe has included a useful background of the Central Otago District Plan (CODP) at her section 6.
- 43 At paragraph 18.11, Ms Wharfe considers that Rural Resource Areas 1 to 4, which have small lots sizes, are a “consequence of the historical legacy” and that “such legacy issue should not be the basis for a new development”. I do not consider that such a position has been put forward. I understand that Rural Resource Areas 1 to 4 came about through plan change requests and would have been assessed on their merits, much how PC14 should be assessed. What is important here is that these “zones” were found to be appropriate for the Rural Resource Area and not the Residential Resource Area; that is contextually relevant in my opinion given Ms Wharfe takes issue with the lot sizes and compare them to an urban zone found in another chapter of the CODP. PC14 is correctly located in the Rural Resource Area of the CODP in my opinion.
- 44 I have addressed the issues around the differing terminology in my evidence in chief, principally around the use of the terms “rural lifestyle” and “rural residential”. The issue drawn to by Ms Wharfe is to the corresponding size of allotments.
- 45 I agree with Ms Wharfe that the term “rural lifestyle” is not defined in the CODP. It is also not defined in the RMA or the RPS. I strongly disagree with her statement at paragraph 8.8 that “the lack of inclusion of ‘rural lifestyle’ in Section 4 [of the CODP] means that the PC14 will significantly change the focus of the Rural Resources Area provisions”. This statement overlooks what is set out in the objectives and policies of the Rural Resource Area, and what has been established by way of plan changes within the Rural Resource Area since the CODP was made operative. Ms Wharfe supports this in her paragraph 8.7 where she refers to the objectives and policies that provide for rural living.
- 46 The PC14 provisions are based on a principle objective (4.3.9) that enables integrated, mixed use development that recognised and provides for – among other things – residential and lifestyle development. PC14 includes a new supporting policy (4.4.18) that further expands on this objective taking into account the various technical evidence that has been relied on to support PC14. This further transpires into the rule framework that is specific to RuRA(5), being a *part* of the Rural Resource Area.
- 47 If you do not provide for rural lifestyle development in the Rural Resource Area of the CODP, where in the CODP do you put it? In consideration of the landscape evidence of Mr Milne and the technical information around soils and production, the Rural Resource Area is the most appropriate place for this zone. Rural living has direct synergies with rural amenity, and I do not consider that rural amenity can be found in “urban areas” (as defined) in the CODP. If you did provide for rural

living environments in an urban area, such areas would inevitably face degradation of any rural amenity as from my understanding of those zones, rural amenity is not an attribute that is sought to be maintained or enhanced.

- 48 Ms Wharfe helpfully covered the National Planning Standards in her evidence.¹⁴
- 49 In reference to her paragraph 8.11, I consider that the Ripponvale area aligns with the definition of Rural Lifestyle Zone (and agree with Ms Wharfe at 8.12), reproduced below:

“Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General Rural and Rural Production Zones, while still enabling primary production to occur.”

- 50 Interestingly, the definition of “primary production” referred to at 8.14 includes pastoral activities, as well as agricultural activities (which would also cover horticulture and viticulture).
- 51 Mr Wharfe draws a link at her paragraph 8.18 to *lot size* and providing for reasonable primary production. This lot size specific approach has also been taken by Mr Whitney. What I believe is being overlooked here is what is requested: PC14 is seeking to change *the zone* of the Requestors land and in doing so, is enabling a range of uses to be undertaken *within the zone*. While on one hand I agree that lots of 2,000m² will present limited opportunities for primary production, I do not agree with this constraint for lot sizes 3,000m² and above, as confirmed in the evidence of Mr Edwards. Mr Gibson for Horticulture NZ confirms at his paragraph 10.21 that 2,000m² lots would be lost to productive uses but 4,000m² lots would enable 50% use.
- 52 My reading of Mr Gibson’s evidence where he refers to needing 4-8ha lots is in the context of those lots retaining a commercial scale. The horticulture block is 29ha and its use gives effect to Objective 5.3 of the Partially Operative RPS (2019). With the exception of this Objective, the operative and proposed RPSs do not make a distinction between domestic or commercial productive uses.
- 53 I reiterate my view that what should be principally assessed in regard to PC14 – in the context of primary production – is what is provided across the zone as a whole, not what can / cannot be undertaken on a site-by-site basis.
- 54 For completeness, I refer to Ms Wharfe’s reference to the definition of “Large Lot Residential Zone” at her paragraph 8.28, which states:

¹⁴ From paragraph 8.8.

“Areas used predominantly for residential activities and buildings such as detached houses on lots larger than those of the low density residential and general residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development.”

55 Again, this definition is in response to a zone in an “area”, like the definition for Rural Lifestyle Zone. The enablement of primary production in PC14 is a distinguishing feature, likewise, are the range of much larger allotment sizes proposed. In the context of the CODP, large lot residential zones are contained in urban areas (as defined). The Requestor’s site is not within an urban area. Furthermore, this definition has no recognition of the rural environment. I do not consider this definition to be suitable to describe what is intended with PC14.

Consultation

56 Ms Wharfe takes issue at her paragraphs 10.49 to 10.51 with my comments¹⁵ regarding the consultation that was undertaken during the formulation of PC14. Those comments are not used to justify the appropriateness of PC14, rather are contextually relevant insofar that many of the key issues that are the focus of evidence were traversed in advance of lodgement of PC14 and as I stated – this was relied on to inform decisions made by the Requestor. That is fact and a good example of how consultation works.

57 This process has been very inclusive from the outset, including through the public drop-in session that were undertaken during the notification period. In my opinion, this inclusive approach has been a significant factor in why 75% of submitter’s support PC14.

58 The consultation is not determinative on an outcome but is very much contextually relevant as to how PC14 has been shaped.

Regional Policy Statements

59 I have assessed the revised proposal against the objectives and policies of the Regional Policy Statements, I refer to the table attached as my **Appendix 1**. The statutory requirement is that the plan change “give effect to” operative provisions of the Regional Policy Statements, and “have regard to” proposed provisions.

60 In my opinion, PC14 gives effect to the operative Regional Policy Statements (1998 and 2019) and is consistent with the provisions of the Proposed Regional Policy Statement (2015) that are not yet operative.

¹⁵ Paragraphs 112 to 136 of Giddens evidence in chief

Dated this 25th day of May 2020



Brett James Giddens

Evaluation of Amended PC14 against the Regional Policy Statements

Table 1: Operative Otago Regional Policy Statement (1998)

Objectives and Policies	Evaluation
Chapter 5: Land	
<p>Objective 5.4.1 To promote the sustainable management of Otago's land resources in order: (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.</p>	<p>PC14 promotes the sustainable management of the region's land resource through a rural living zone (RuRA5) guided by rules and a Structure Plan (as methods), and the specific implementation of horticulture planting and activities on a dedicated 29ha land parcel within PC14.</p> <p>Primary productive capacity of the land is dependent on a range of factors. While some soils are potentially productive, other site constraints including availability of water constrain the primary productive capacity of the land. The cherry orchard extension within the Horticulture Block will optimise the commercial productive potential of the site.</p> <p>For the remainder of the site, rules requiring that parts of the site be retained for agricultural/horticultural use will largely maintain, and in some cases may enhance residual productive capacity, while also providing important housing capacity which meets the needs of people and communities.</p> <p>At a regional level, the loss of the productive capacity of the land is insignificant taking into account the high level analysis undertaken by Ms Hampson. Notably this assessment assumed that the majority of the land contained soils of importance for production and that all the of the RuRA(5) land would be lost to any primary production, which is an overly conservative assumption taking into account the soils and productivity evidence and amended proposal.</p>

	<p>The land resource will be managed to meet certainly the present and also the reasonably foreseeable future needs of the region’s people and communities.</p> <p>I maintain my opinion that PC14 gives effect to this objective.¹</p>
<p>Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource.</p>	<p>With rural lifestyle development, some loss of the land resource (soils) is inevitable through the placement of buildings, roading and infrastructure. Rural living however will also enable the use of the land resource and this is an important balancing factor which helps mitigate any loss. Retaining the status quo does not promote the sustainable management of the region’s land resource in accordance with Objective 5.4.1.</p> <p>The land itself is a resource for more than its productive value and capacity. It is a land resource that is suitable for rural lifestyle activity, including residential activity. Through appropriate controls on lots sizes, positioning of built form, and ecological enhancement, PC14 protects an ONL, avoids and mitigates degradation of landscape and visual values, provides ecological enhancement, enhances recreational values, and maintains and enhances rural amenity.</p> <p>While it could be said that the proposal is neutral to this objective, I maintain my opinion that PC14 gives effect to this objective and others as a whole.²</p>
<p>Policy 5.5.2 To promote the retention of the primary productive capacity of Otago’s existing high class soils to meet the reasonably foreseeable needs of future generations and the avoidance of uses that have the effect of removing those soils or their life-supporting capacity and to remedy or mitigate the adverse effects on the high class soils resource where avoidance is not practicable.</p>	<p>High class soils are defined in the Operative RPS (1998) as “<i>soils that are capable of being used intensively to produce a wide variety of plants including horticultural crops. The definition requires good soil <u>and other resource features that in combination are capable of producing a wide range of crops. It does not include areas that may be suited to one or two specialist crops, largely due to the climate rather than soil quality</u>”.</i></p> <p>[My emphasis added].</p> <p>There is conflicting evidence as to whether the soils meet the definition of “high class soils”. It also doubtful that the soils could have this classification given the available water, being a fundamental attribute to primary productive capacity recognised by experts for the Requestor</p>

¹ See paragraphs 61 (a), 93 (a), 114 (a) of Giddens Evidence, and Table 1 of Appendix B of the Request Document.

² See paragraphs 61 (a), 93 (a) of Giddens Evidence, and Table 1 of Appendix B of the Request Document

	<p>and HortNZ. Whilst Mr Gibson concludes soils are "high class" he assumes that water is available given previous irrigation of the site, Mr Larsen confirms that the water is utilised within the cherry orchard extension.</p> <p>Irrespective as to whether the Waenga 5 soils identified by Mr Gibson are high class soils for the purpose of this policy, the intent of the policy has been captured through PC14, particularly through the more recent amendments to the proposal to increase the lot sizes within the area of the Waenga 5 soils and with further controls to encourage horticulture or agricultural activity to occur within all sites larger than 3,000m². This mean that uses that could have the effect of removing the important soils or their life supporting capacity within PC14 have been predominantly avoided.</p> <p>Complete avoidance of higher quality soils on site is not practicable in its entirety as I discuss in the context of Objective 5.4.2 above. This effect is however mitigated by the requirement to set aside land outside of the building platforms in Rural Lifestyle Areas 2, 3, 4 and 5 for agricultural or horticultural use, which in my opinion represents a significant area of land preserved for productive uses.</p> <p>This policy does not require that the primary productive capacity of the soils be retained for economic and commercial use; domestic "primary productive" uses are not excluded, which is supported in the evidence of Mr Paul Edwards who considers that the lots can be used for productive land uses.</p> <p>I maintain my opinion that PC14 gives effect to this policy.³</p>
<p>Policy 5.5.3 To maintain and enhance Otago's land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects: (a) Reduce the soil's life-supporting capacity (b) Reduce healthy vegetative cover</p>	<p>This policy does not direct consideration to higher or lower value soils, rather it directs consideration in the more general sense, considering soils as a regional "land resource". It seeks to maintain and enhance that resource through avoidance, remediation or mitigation.</p> <p>As set out in the analysis undertaken by Ms Hampson, the regional land resource will be impacted on by a minute degree respectively if it was said that the site contained highly</p>

³ See paragraphs 93 (b) of Giddens Evidence, and Table 1 of Appendix B of the Request Document.

<p>(c) Cause soil loss (d) Contaminate soils (e) Reduce soil productivity (f) Compact soils (g) Reduce soil moisture holding capacity.</p>	<p>productive soils which were lost to land development. The region's land resource will be maintained.</p> <p>For the reasons expressed above, I maintain my opinion that PC14 gives effect to this policy.⁴</p>
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⁴ See paragraphs 93 (d) and (e) of Giddens Evidence, and Table 1 of Appendix B of the Request Document.

Table 2: Partially Operative Otago Regional Policy Statement (2019)

Objectives and Policies	Evaluation
Chapter 1: Resource management in Otago is integrated	
<p>Objective 1.1 Otago’s resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities.</p> <ul style="list-style-type: none"> • Policy 1.1.1 Economic wellbeing • Policy 1.1.2 Social and cultural wellbeing and health and safety 	<p>As set out above, the region includes a wide range of resources. The principle resource in the context of PC14 is the land resource.</p> <p>Economic wellbeing is promoted through the eventual development of the land for rural living purposes, through establishment and use of the 29ha horticulture block, and through the horticultural or agricultural uses of land within RuRA(5) outside of the building platforms on allotments in Rural Living Areas 2, 3, 4 and 5.</p> <p>Social wellbeing is promoted by catering for a significant demand for rural living allotments in the district, which in turn will minimize the pressures of ad hoc development in other rural areas. PC14 provides for rural living in a location that is easily accessible to the Cromwell Township and key employment locations. It provides a mix of densities within a rural context, connectedness through its open space network and future roading network, and enhances community values and recreational opportunities.</p> <p>Cultural wellbeing is promoted through the continued emphasis on horticultural land uses complimenting rural living.</p> <p>PC14 gives effect to this objective and its associated policies.</p>
<p>Objective 1.2 Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.</p> <ul style="list-style-type: none"> • Policy 1.2.1 Integrated resource management 	<p>PC14 represents a logical and coherent response to address the issue of demand for rural living allotments, in a comprehensive and integrated manner. The evidence from Ms Hampson is that there is a significant demand and PC14 is the only option currently available to address that demand. Integrated management requires the balancing of resources and in this case, the balance is between the provision of a fulfilled rural living environment and maintaining the productive values of the land, while at the same time not compromising surrounding rural activities. In my opinion, an appropriate balance has been achieved and PC14 gives effect to this objective and its associated policies.</p>

Chapter 2: Kai Tahu values and interests are recognised and kaitiakitaka is expressed	
<p>Objective 2.1 The principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions.</p> <ul style="list-style-type: none"> • Policy 2.1.1 Treaty obligations • Policy 2.1.2 Treaty principles 	<p>The Kai Tahu ki Otago Iwi Management Plan 2005 has been used to help guide the assessment on cultural values and associated effects arising from PC14.</p>
<p>Objective 2.2 Kai Tahu values, interests and customary resources are recognised and provided for.</p> <ul style="list-style-type: none"> • Policy 2.2.1 Kai Tahu wellbeing 	<p>The PC14 site does not contain any customary resources or sites.</p> <p>PC14 will not impact on cultural values and will give effect to these objectives and their associated policies.</p>
Chapter 4: Communities in Otago are resilient, safe and healthy	
<p>Objective 4.1 Risk that natural hazards pose to Otago's communities are minimized</p> <ul style="list-style-type: none"> • Policy 4.1.1 Identifying natural hazards • Policy 4.1.2 Natural hazard likelihood • Policy 4.1.3 Natural hazard consequence • Policy 4.1.4 Assessing activities for natural hazard risk • Policy 4.1.5 Natural hazard risk • Policy 4.1.6 Minimising increase in natural hazard risk • Policy 4.1.7 Reducing existing natural hazard risk 	<p>PC14 has been assessed in terms of the natural hazard risks. An alluvial fan hazard, landslide and seismic hazard was identified over the site but it was determined that most hazards and risk will not provide any limitation on residential development.</p> <p>Through adherence to the Structure Plan, the risk that natural hazards provide over the site are avoided or minimised.</p> <p>Objective 4.1 and its associated policies have been given effect to.</p>

<ul style="list-style-type: none"> • Policy 4.1.8 Precautionary approach to natural hazard risk • Policy 4.1.9 Protecting features and systems that provide hazard mitigation • Policy 4.1.10 Mitigating natural hazards • Policy 4.1.11 Hard protection structures • Policy 4.1.12 Lifeline utilities and facilities for essential or emergency services • Policy 4.1.13 Hazard mitigation measures, lifeline utilities, and essential and emergency services 	
<p>Objective 4.3 Infrastructure is managed and developed in a sustainable way.</p> <ul style="list-style-type: none"> • Policy 4.3.1 Managing infrastructure activities 	<p>The development enabled by PC14 can be appropriately serviced with adequate capacity in Council’s reticulated water and wastewater supply to meet the demands of the development.</p> <p>A road network within PC14 will provide a high degree of connectivity for a range of transport modes. This road network will gain access from Ripponvale Road, which has capacity to absorb additional traffic from the development. Roading infrastructure can be provided within the development area in accordance with Council’s Engineering Code of Practice.</p> <p>The unified position in the evidence is that PC14 can be adequately serviced. PC14 gives effect to this objective and policy.</p>
<p>Objective 4.5 Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.</p>	<p>PC14 is not “urban development”. PC14 is development and it does constitute growth for rural living activity, which includes residential activity. I have considered Objective 4.5 in this context.</p> <p>PC14 represents the most appropriate option for addressing demand.</p>

<ul style="list-style-type: none"> • Policy 4.5.1 Providing for urban growth and development • Policy 4.5.2 Integrating infrastructure with land use • Policy 4.5.3 Urban design • Policy 4.5.4 Low impact design • Policy 4.5.6 Designing for public access 	<p>Many criticisms of submitters focus on the lack of integration of PC14 to Cromwell. Breaking this down into issues that relate to this Objective and its policies, the integration issue can be focused on the crossing of the state highway by non-motorised forms of transport (pedestrians and cycles).</p> <p>PC14 is an integrated development guided by a Structure Plan. There is not sufficient supply for the rural living environments that will be established in the RuRA(5) zone [4.5.1 (c)] and PC14 is providing for demand and growth.</p> <p>Rural production activities are provided and adverse effects on soils are minimised, as discussed above. The competing demands for the land resource have been managed through the balance achieved with PC14 to provide for rural living with horticulture and agricultural activities. The ONL has been maintained and hazards have been avoided [4.5.1 (f)].</p> <p>Reverse sensitivity effects have been thoroughly considered, and avoided and mitigated through building setbacks, screen planting and acoustic standards [4.5.1 (h)].</p> <p>PC14 does not promote urban forms or densities of development. While there is a degree of separation from the Cromwell Township, it is within walking and cycling distance, such that rural living development of the form and location proposed does not result in sprawl or a “sporadic pattern of settlement” [4.5.1 (j)].</p> <p>PC14 will be connected into the local infrastructure network. The fact that there is existing infrastructure in this location and the ability for this connection to be made without adverse effect indicates to me that PC14 is appropriately located in terms of infrastructure and achieves Policy 4.5.2. Notably, with land use change in growth and development planning, Policy 4.5.2 (c) is directive towards the coordination of the “design and development of infrastructure”. In my opinion, taking into account the location of the CODC’s existing infrastructure, it is logical that the land encompassing PC14 should be considered for further development.</p> <p>Policy 4.5.3 relates to “new urban development” and I do not consider this to be relevant to PC14.</p> <p>While I consider this objective of general relevance, in the context of the development form proposed, PC14 gives effect to this objective and its associated policies.</p>
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<p>Objective 4.6 Hazardous substances, contaminated land and waste materials do not harm human health or the quality of the environment in Otago.</p> <ul style="list-style-type: none"> • Policy 4.6.4 Identifying contaminated land • Policy 4.6.5 Managing contaminated land • Policy 4.6.6 Waste management • Policy 4.6.7 Waste minimization responses • Policy 4.6.8 Waste storage, recycling, recovery, treatment and disposal. 	<p>The NESCS is relevant at times when there is a change of use or soil disturbance activities are being undertaken. Therefore consideration against the NESCS will be undertaken as part of the resource consent process to ensure there is no harm to the human health or the quality of the environment as a result of development.</p> <p>PC14 gives effect to this objective and associated policies.</p>
Chapter 5: People are able to use and enjoy Otago's natural and built environment	
<p>Objective 5.1 Public access to areas of value to the community is maintained or enhanced.</p> <ul style="list-style-type: none"> • Policy 5.1.1 Public access 	<p>Public pedestrian access is to be provided in general accordance with the Circulation Plan to be included in Schedule 19.24 and provided in Appendix A, through both the RuRA(5) zone and the ONL area. The public access is to be protected by way of easement or equivalent legal mechanism.</p> <p>PC14 gives effect to this objective and policy.</p>
<p>Objective 5.2 Historic heritage resources are recognised and contribute to the region's character and sense of identity.</p> <ul style="list-style-type: none"> • Policy 5.2.1 Recognising historic heritage • Policy 5.2.2 Identifying historic heritage • Policy 5.2.3 Managing historic heritage 	<p>Historic water races dating back from at least the 1870's have been identified over part of the site. To undertake development or earth disturbance over these water races an Archaeological Authority must first be obtained. Planning controls ensure that development within the area will build on the landscape and historic values of Cromwell (particularly related to Cromwell's orchards, agricultural and goldmining past) to enhance a sense of place.</p> <p>PC14 gives effect to this objective and its associated policies.</p>

<p>Objective 5.3 Sufficient land is managed and protected for economic production.</p> <ul style="list-style-type: none"> • Policy 5.3.1 Rural activities 	<p>This objective has a specific focus on land managed and protected for “economic production”. PC14 provides for a 29ha horticulture block that will be planted with cherries, and integrated into the Requestor’s existing horticulture business. This land is considered sufficient for economic production and has adequate water to enable this.</p> <p>PC14 gives effect to this objective.</p>
<p>Policy 5.3.1 Rural activities Manage activities in rural areas, to support the region’s economy and communities, by:</p> <ol style="list-style-type: none"> Enabling primary production and other rural activities that support that production; Providing for mineral exploration, extraction and processing; Minimising the loss of significant soils; Restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects; Minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency; Providing for other activities that have a functional need to locate in rural areas. 	<p>Primary production is enabled through PC14, in the horticulture block and through the Rural Lifestyle Areas 2, 3, 4 and 5, by way of containing built form to building platforms and setting aside large areas of the balance land for horticulture or agricultural activities.</p> <p>The loss of soils – significant or otherwise – has been minimized, as discussed above.</p> <p>Residential activity can in some circumstances be an incompatible activity in a rural area. PC14 includes a range of measures to not only restrict these activities within the PC14 site, but to avoid and mitigate those effects where possible.</p> <p>PC14 will result in some loss of potentially productive soils but this is only one factor of productive capacity - commercial productive potential is maintained through identification of the horticulture area, and residual productive capacity is largely maintained in RLA 2, 3, 4 and 5.</p> <p>Rural living development has a functional need to locate in rural areas. As set out in the evidence of Mr Milne, rural areas have characteristics that are distinct from urban areas and are valued by people and communities as desirable locations to reside and work.</p> <p>PC14 gives effect to this policy.</p>
<p>Objective 5.4 Adverse effects of using and enjoying Otago’s natural and physical resources are minimized.</p>	<p>For the reasons expressed throughout the Request document and evidence, adverse effects from using and enjoying the region’s natural and physical resources have been minimized. A precautionary approach has been adopted to avoiding and mitigating effects, including with</p>

<ul style="list-style-type: none">• Policy 5.4.3 Precautionary approach to adverse effects	<p>respect to soils where safeguards have been put in place in RuRA(5) to maintain the productive capacity of the soils even though all of the soils in PC14 are not considered to be high value soils.</p> <p>PC14 gives effect to this objective and policy.</p>
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Table 3: Proposed Regional Policy Statement (2015)

Objectives and Policies	Evaluation
Chapter 3: Otago has high quality natural resources and ecosystems	
<p>Objective 3.1 The values of Otago’s natural resources are recognised, maintained and enhanced.</p> <ul style="list-style-type: none"> • Policy 3.1.3 Water allocation and use • Policy 3.1.7 Soil values • Policy 3.1.9 Ecosystems and indigenous biological diversity • Policy 3.1.10 Natural features, landscapes and seascapes • Policy 3.1.12 Environmental enhancement 	<p>The region has an abundance of natural resources, including land, water and air. PC14 has had significant consideration to the values of region’s natural resources so that they are recognised, maintained, protected or enhanced. This is evident in many ways such as through:</p> <ul style="list-style-type: none"> • Expansion of the ONL to protect a greater area of significance from inappropriate land use and subdivision. • The identification of a range of Rural Lifestyle Areas across the site which directs higher density of development into the less visually sensitive areas of the site and lower density of development into the higher elevated parts of the site. • The identification of no-build and open space areas within the site to address amenity and natural hazard effects and to address social wellbeing by providing opportunities for recreation and connectivity. • Identification of a 29 hectare horticulture area to be developed as a cherry orchard to enhance the productivity of this area of land from its current rural use. • Ecological enhancement through planting. <p>The amended proposal provides further modifications to further provide for Policy 3.1.7 relating to soils, discussed further below.</p> <p>Further taking into consideration my evaluation of Policy 3.1.7, I maintain my opinion that PC14 is consistent with this this objective and its associated policies.⁵</p>
<p>Policy 3.1.7 Soil values Safeguard the life supporting capacity of soil and manage soil to:</p> <ul style="list-style-type: none"> a) Maintain or enhance as far as practicable 	<p>This policy does not make a distinction between the values of the soils for consideration and it is the soil as a regional resource that is directed for consideration.</p>

⁵ See paragraphs 62 (a), 94 (a) of Giddens Evidence, and Table 2 of Appendix B of the Request Document.

<ul style="list-style-type: none"> i. Soil biological diversity ii. Biological activity in soils iii. Soil function in the storage and cycling of water, nutrients and other elements through the biosphere iv. Soil function as a buffer or filter for contaminants resulting from human activities, including aquifers at risk of leachate contamination v. Soil fertility where soil is used for primary production <ul style="list-style-type: none"> b) Where a) is not practicable, minimise adverse effects c) Recognise that urban and infrastructure development may result in loss of soil values d) Control the adverse effects if pest species, prevent their introduction and reduce their spread e) Retain the soil mantle where it acts as a repository for historic heritage objects unless an archaeological authority has been obtained. 	<p>29ha of land has been specifically set aside for horticulture development and use. The life supporting capacity of the soil in this regard will be maintained and enhanced.</p> <p>A range of allotment sizes are promoted in PC14 through a new RuRA(5) zone, ranging from 2,000m² (as a minimum) to upwards of 3ha. Notably, the proposal has been amended to reduce the size of RLA 1 and 2 (providing for a minimum of 2,000m² and 3,000m² lots, respectively) and increasing area of RLA 3 (providing for a minimum of 4,000m² lots) to enable more land to be used for agricultural or horticultural land uses, therefore utilising the soil resource. There is a competing use of the land resource in the form of rural living development. PC14 seeks to balance these competing demands and it is not practicable to entirely safeguard all of the soil resource in the PC14 site. Adverse effects are minimized in accordance with limb (b) of this policy.</p> <p>Policy 3.1.7 (c) directs that “urban and infrastructure development” may result in a loss of soil values. I have assessed this effect in consideration of Objective 5.4.2 of the Operative RPS (1998) of which PC14 gives effect to. While I do not agree that PC14 constitutes urban development, it is land development nonetheless and in the context of this policy, the development has minimized the impact on soils where practicable, through a range of methods including lot sizes and reticulated servicing, and the more recent amended Structure Plan which avoids the smaller lots in the soil area that HortNZ considers of importance.</p> <p>The other limbs of this policy are not directly relevant to PC14.</p> <p>PC14 is consistent with this policy.</p>
<p>Objective 3.2 Otago’s significant and highly-valued natural resources are identified, and protected or enhanced.</p> <ul style="list-style-type: none"> • Policy 3.2.3 Identifying outstanding natural features, landscapes and seascapes 	<p>This objective focuses on “significant and highly valued” natural resources in the region. For many of the same reasons as expressed above, PC14 is consistent with this Objective and its associated policies relating to landscapes and soils.</p> <p>Policy 3.2.17 requires the identification of significant soils and Policy 3.2.18 requires their management, which I evaluate below.⁶</p>

⁶ See paragraphs 62 (a), 94 (a) and (b) of Giddens Evidence, and Table 2 of Appendix B of the Request Document.

<ul style="list-style-type: none"> • Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes • Policy 3.2.5 Identifying highly valued natural features, landscapes and seascapes • Policy 3.2.6 Managing highly valued natural features, landscapes and seascapes • Policy 3.2.17 Identifying significant soil • Policy 3.2.18 Managing significant soil 	
<p>Policy 3.2.17 Identifying significant soils Identify areas of soil that are significant using the following criteria:</p> <ul style="list-style-type: none"> a) Land classified as land use capability I II and IIIe in accordance with the NZ Land Resource Inventory b) Degree of significance for primary production c) Significance for providing contaminant buffering or filtering services d) Significance for providing water storage or flow retention services e) Degree of rarity 	<p>Policy 3.2.17 sets out criteria to establish what are “significant soils”. Evidence appended to the Request document confirmed that the soils on the PC14 site do not meet this classification, specifically not falling within the land use capability classification in limb (a). Mr Balderston for the ORC also considers that significant soils are not identified on the site.⁷ HortNZ have taken an alternative view.</p> <p>Mr Gibson’s evidence focusses almost solely on limb (b), the degree of significance for primary production. Mr Edwards and Mr Larsen discuss the productive values in their evidence and it is evident that soil is only one factor contributes to primary production, a fact also acknowledged by Mr Gibson in his evidence.</p> <p>In regard to limb (c), I consider that it is reasonable to hold the view that some of the soils in the PC14 have higher productive value and this is how I have approached my assessment. Productivity is influenced by a range of factors, including water availability.</p> <p>In regard to limb (e), no evidence has been provided that the soils are rare on a region scale.</p>

⁷ Paragraph 26 of Balderton Evidence

	<p>In my opinion, some of the soils in the PC14 site (namely the Waenga 5) are soils of higher productive value, but are not significant in the context of this policy. If it was found that they were “significant soils” under this policy, it would not alter my opinion that those soils have been identified and the methods put in place are the most appropriate to manage those soils, as discussed below in the context of Policy 3.2.18.</p> <p>PC14 is consistent with this policy.</p>
<p>Policy 3.2.18 Managing significant soil Manage areas of significant soil by all of the following:</p> <ul style="list-style-type: none"> a) Maintaining those values which make the soil significant b) Avoiding remedying or mitigating other adverse effects c) Recognising that loss of significant soil to urban development may occur in accordance with any future development strategy d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread 	<p>If some of the soil within PC14 was considered to be “significant soil” under Policy 3.2.17, then Policy 3.2.18 would need to be considered as this policy requires the management of significant soils.</p> <p>For the reasons I have set out above, I consider that the values of the soil within the PC14 site have been maintained. I also consider that the general loss of soils to rural living development has been largely remedied by the provisions of the 29ha horticulture block that has been specifically set aside from the RuRA(5) zone. PC14 is not urban development.</p> <p>PC14 is consistent with this policy.</p>