

PART 2 : PART 2 : 2.13 PLAN CHANGE 5M : RURAL RESOURCE AREA : COMMERCIAL, INDUSTRIAL AND MANUFACTURING ACTIVITY

Scope of Plan Change: Plan Change 5M amends Rule 4.7.6B(b) to control activity of a commercial, industrial or manufacturing nature in that part of the Rural Resource Area subject to the "Rural Residential" ([RR]) notation on the planning maps. The current Rule 4.7.6B(b) provides for commercial, industrial or manufacturing activity not employing more than three persons as a permitted activity throughout the Rural Resource Area. Plan Change 5M confirms that any activity of a commercial, industrial or manufacturing nature in areas subject to the "Rural Residential" notation will require consent as a discretionary activity.

Related Plan Changes: Nil.

Submissions & Further Submissions: Submitters and Further Submitters are listed in the Summary of Submissions and Further Submissions and in the Council Decision below.

Submission Summary: See Summary of Submissions and Further Submissions pages 1082-1100.

Decision 5M/2.1.1

Discussion & Reasons:

The Council's Hearings Panel considered submissions and further submissions in response to proposed Plan Change 5M on 17 May 2010. No submitters or further submitters chose to appear at the hearing with respect to proposed Plan Change 5M.

Plan Change 5M amends Rule 4.7.6B(b) to control activity of a commercial, industrial or manufacturing nature in that part of the Rural Resource Area subject to the "Rural Residential" ([RR]) notation on the planning maps. Proposed Plan Change 5M will result in any activity of a commercial, industrial or manufacturing nature requiring consent as a discretionary activity on land subject to the "Rural Residential" notation.

The Rural Residential notation provides for rural residential subdivision and development at a greater density than applies elsewhere in the Rural Resource Area. Land subject to the Rural Residential notation requires an average allotment area for subdivision of 2 hectares, which contrasts with the 8 hectare average required elsewhere in the Rural Resource Area.

Rule 4.7.6B(b) as contained in the Operative District Plan provides for commercial, industrial or manufacturing activity not employing more than 3 persons as a permitted activity throughout the Rural Resource Area, including land subject to the Rural Residential notation.

Concerns have been expressed to the Council in the past with respect to the effects of such activity, particularly in those areas subject to the Rural Residential notation. In essence residents have expressed concern that activities of a commercial or industrial nature have been permitted to develop without resource consent in such Rural Residential areas, resulting in adverse effects (such as noise and traffic effects) being experienced by nearby residents. The intent of proposed Plan Change 5M is to require such commercial, industrial or manufacturing activity to obtain a resource consent as a discretionary activity prior to establishment, notwithstanding the fact that such activity may employ 3 persons or less.

Proposed Plan Change 5M maintains the status quo elsewhere in the Rural Resource Area where commercial, industrial or manufacturing activity that employs no more than 3 persons will continue to have status as a permitted activity.

Several submissions lodged in response to Plan Change 5M appear to be of a generic nature, and have been lodged in response to the provisions of proposed Plan Changes 5A-5W in total; or in response to the provisions of Plan Changes 5A-5R.

Submissions which refer specifically to proposed Plan Change 5M include the submissions by **BTW South Limited (21/1)** opposed by **Real Estate Institute of New Zealand Inc. (335/147)**, **C A Crawford (38/4)**, **K & J Furniss (70/2)**, **B McCrostie (105/6)**, **N McCrostie (106/6)**, **D Russel (163)**, **M Sangster (167/6)** and **T Sangster (168/6)**.

The **NZ Historic Places Trust (236)** opposed by **L English aka Bennett (310/12)** and **Paterson Pitts Partners Ltd (330/3)** is generally supportive of proposed Plan Change 5M.

The submission by **BTW South Limited (21/1)** opposed by **Real Estate Institute of New Zealand Inc. (335/147)** notes that rural residential blocks are often used for small home based activities which do not necessarily result in adverse effects upon the surrounding environment. The submitter notes that the proposed change will restrict the use of rural residential land and as an example states that an earthworks contractor couldn't work or have yards at home as this would be considered as a commercial activity. The submitter considers that the discretionary activity status for a breach is overly restrictive for activities which would not necessarily result in effects which are more than minor.

While some home based activities "do not necessarily" result in adverse effects upon the surrounding environment others do. Activities of a commercial, industrial and manufacturing nature include a wide range of activities, many of which have the potential to detract from rural residential amenity. This is the reason why in urban areas Business and Industrial Resource Areas have been provided. The Council considers that the example quoted by the submitter of an earthworks contractor is a type of activity which could adversely affect the amenities enjoyed by neighbouring residents. The Council considers that discretionary activity status (which provides the Council with discretion to grant consent, grant consent with conditions or refuse consent) is an appropriate resource consent category for such activity.

The submissions by **C A Crawford (38/4)** and **K & J Furniss (70/2)** raise concerns at the driving up of costs for small businesses; and the general effect of the proposed plan change slowing economic activity at a most inopportune time.

It is appropriate to acknowledge that the change to Rule 4.7.6B(b) will only apply to those areas that are subject to the Rural Residential notation, where a denser pattern of rural residential subdivision and development is being provided for through the plan provisions. The intent of the plan changes is to avoid, remedy or mitigate adverse effects on neighbours, and the Council considers this to be consistent with the purpose of the Act.

B McCrostie (105/6), **N McCrostie (106/6)**, **M Sangster (167/6)** and **T Sangster (168/6)** consider that people should have the right to operate a small business from home without requiring resource consent. The submitters do not believe that a small business with a staff of 3 has large effects which would justify going through the resource consent process.

It is appropriate to recognise that the District Plan provides for a "home occupation" as part of a residential activity. The definition of home occupation as stated in the Operative District Plan states as follows:

"Home occupation

means an occupation, craft or profession which:

- (a) Is carried on by a member of the family residing in the dwelling on the site; and
- (b) Is clearly accessory and secondary to the use of the dwelling for residential purposes; and

- (c) Conforms to the following:
- (i) The occupation, craft or profession shall be carried out either wholly within a principal building or within an accessory building modified for the purposes; and
 - (ii) There shall be no exterior display, no exterior sign (except as permitted under the rules for the relevant Resource Area and the general rules for signs), no exterior storage of materials, no other exterior indication of the home occupation or variation from the residential character of the principal building or the neighbourhood.
 - (iii) The occupation, craft or profession does not have characteristics that are likely to cause adverse effects in terms of noise, odour, vibration, dust or attracting significant volumes of traffic.
 - (iv) Goods produced or services offered as a part of a home occupation may be sold from the site. No other retail activity is authorised in the context of a home occupation.”

In essence an occupation, craft or profession which is undertaken by a member of the family residing in the dwelling and that is clearly accessory and secondary to the use of the dwelling for residential purposes is permitted, notwithstanding proposed Plan Change 5M. In essence people have the right to operate a small occupation, craft or professional type business from home without requiring resource consent. As noted above, the difficulty arises with commercial, industrial or manufacturing activities which may have significant adverse effects on the environment. The intent of the rule amendment proposed by Plan Change 5M is that such activities are to be authorised through the resource consent process as a discretionary activity. Such an approach provides for those who may be adversely affected to participate in the resource consent process through submissions.

D Russel (163) suggests that a lot of commercial activity is less harmful to the environment and less obtrusive to neighbours than the activities that are permitted. The submitter considers that if you own land and you want to run your office from home then you should be allowed to. The Council considers that such activity is provided for in the definition of “home occupation” presented above, which is a permitted activity throughout the Rural Resource Area, notwithstanding proposed Plan Change 5M.

In terms of section 32 the use of alternative and non-regulatory methods are not considered appropriate as the Operative District Plan already contains Rule 4.7.6B(b), and the effect of proposed Plan Change 5M is to remove the 3 person threshold for land subject to the Rural Residential notation. Proposed Plan Change 5M is considered to be efficient and effective as it provides for a resource consent process for activities that may have adverse effects on the environment. Proposed Plan Change 5M is considered to be the most appropriate method to achieve the purpose of the Act and is considered to be the most appropriate alternative, being superior to the status quo.

Council Decision:

1. That the submissions by the following be accepted.
Central Otago Environmental Society Inc. (29) opposed by **Federated Farmers of New Zealand (312/2)** and the **Real Estate Institute of New Zealand Inc. (335/148)**, **Cromwell Community Plan Group (39)** supported by **Cromwell Community Plan Committee (307/1)** and opposed by **Real Estate Institute of New Zealand Inc. (335/149)**, **Lowburn Community Action Group (104)** opposed by **Real Estate Institute of New Zealand Inc. (335/150)**, **J C Manning (116)**, **NZ Historic Places Trust (236)** opposed by **L English aka Bennett (310/12)** and **Paterson Pitts Partners Ltd (330/3)**, **E Ombler (137)** opposed by **Real Estate Institute of New Zealand Inc. (335/151)**, **Otago Conservation Board (140)** opposed by **Real Estate Institute of New Zealand Inc. (335/152)**, **Royal Forest and Bird Protection**

Society Inc. (162) opposed by **Federated Farmers New Zealand (312/8)** and **Real Estate Institute of New Zealand Inc. (3335/153)**, **I K & S L Smith (177)** opposed by **Real Estate Institute of New Zealand Inc. (335/154)**, **Telecom New Zealand Limited (191)** opposed by **Central Otago Environmental Society (303/1 & 303/2)**, **Te Runanga o Moeraki, Kati Huirapa Runanga ki Puketeraki and Te Runanga o Otakou (193)** supported by **NZ Historic Places Trust (324/1)** and **TrustPower Limited (198)** opposed by **Central Otago Environmental Society (303/1 & 303/2)**.

2. That the submissions by the following be rejected.
Amisfield Estates Limited, Amisfield Wine Company Limited, Big River Lodge Limited Georgian Apiaries Limited, Rosebriar Hill Limited and Waterrace Holdings Limited (“Amisfield”) (1) supported by **L English aka Bennett (310/1)**, **BTW South Ltd (21)** opposed by **Real Estate Institute of New Zealand Inc. (335/147)**, **C A Crawford (38.4)**, **K & J Furniss (70)**, **B McCrostie (105)** supported by **L English aka Bennett (310/6)**, **N McCrostie (106)** supported by **L English aka Bennett (310/7)**, **The Mud House Wine Group (128)** supported by **L English aka Bennett (310/5)**, **L Purvis (152)**, **Real Estate Institute of New Zealand Incorporated (156)**, **D Reeves & A Allison (157)**, **D Russel (163)**, **M Sangster (167)**, **T Sangster (168)**, **Scope Resources Limited (169)** opposed by **Horticulture New Zealand (317/12)** and **G R Somerville (180)**

Plan Amendments:

3. That the provisions of proposed Plan Change 5M as publicly notified stand and Rule 4.7.6B(b) of the Operative Central Otago District Plan on page 4:53 is amended to state as follows:

“B. Traffic Generation and Characteristics of Activities

...

- (b) (i) No more than 3 persons shall be engaged in any activity of a commercial, industrial or manufacturing nature except in areas identified as “Rural Residential” ([RR]) on the planning maps. For the purpose of this rule, farming, horticulture, viticulture, network utilities and forestry activities are excluded from an activity of a commercial, industrial or manufacturing nature.
- (ii) Within areas identified as “Rural Residential” ([RR]) on the planning maps no person shall be engaged in any activity of a commercial, industrial or manufacturing nature. For the purpose of this rule, farming, horticulture, viticulture, network utilities and forestry activities are excluded from an activity of a commercial, industrial or manufacturing nature.

*Breach:
discretionary
activity see
Rule 4.7.4(i)*

Note: Text to be included is double underlined.