Proposal overview

1. As detailed in the AEE and summarised in the s42A report, this application seeks to:

   (a) Subdivide the 1.95 hectare property at 126 Pearson Road, Cromwell, into two Lots:

      (i) Lot 1 will have a land area of 7,347m2 (net) and 11,234m2 (gross) and will contain the existing two-storey dwelling; and

      (ii) Lot 2 will have a land area of 8,266m2 (net) and will contain an existing four-bedroom dwelling and detached 4-bay shed.

   (b) The proposal also seeks land use consent to enable the use of the four-bedroom home on Lot 2 (currently consented for traveller's accommodation) to be utilised for permanent residential purposes.

2. For context, it is important for the Panel to note that the traveller's accommodation has over the years progressively been rented out for several months at a time to workers based out of the District. This includes most recently for workers from Wanaka that have been carrying out construction work on a nearby subdivision development.

Cumulative effects

3. The s42A concludes that the effects on the environment are no more than minor and that the proposal passes the first limb of the s104D gateway test. I agree with that conclusion.

4. However, the s42A report creates some confusion in that it concludes that the proposed lot sizes and residential density is inappropriate, and that the proposed density and **potential additional domestication** has the **potential** for adverse effects on the open character and amenity of the landscape that are at least minor. Key concerns identified in the s42A report includes the potential for increased numbers of persons by way of MRUs, additional traveller's accommodation, noise and ancillary external domestic activities such as outdoor storage, accessory buildings, fencing, vehicle parking and traffic.

5. The concern identified in the s42A report is that subdivision may create opportunities for additional *future* domestication and residential intensity, potentially resulting in adverse effects on the open character and amenity values of the Rural Resource Area. These concerns are founded on the logic that these future effects would not arise if subdivision was not pursued. The practical reality is that any of these activities (fencing, permitted sheds, outdoor storage etc) can all occur irrespective of whether the proposed subdivision occurred or not. I consider the concerns are largely speculative and are not supported by the actual pattern of development and occupation that has occurred on the site, or even adjacent properties, over the past two decades.

6. The potential for future development opportunities is not unique to this application. It is an inherent characteristic of most subdivision consents. The relevant question is whether those future opportunities are a consequence of the subdivision consents being sought, and whether they are likely to result in adverse effects that are more than minor. I note that with the exception of a MRU, all of the potential scenarios resulting in additional built form as alluded to in the s42A report (sheds, worker's accommodation, or additional traveller's accommodation) can be sought irrespective of the subdivision.

Likewise, this is the case for adjacent properties, yet I have not seen an unprecedented uptake/proliferation of MRU or similar structures on any adjacent properties. Not every landowner who seeks to reside in a Rural Residential context sees merit, nor has the desire to construct a MRU on their property, or build their property out unnecessarily with structures, as seems to be suggested by the s42A report.

7. In the event that the Panel considers that additional structures arises as a consequence of the subdivision consent being sought by this application, that have the potential to result in adverse cumulative effects, the simple solution is to manage that concern by imposing conditions. To account for that possibility, I suggest a condition requiring all new building development to be within a building platform with associated consent notice, and restricting further development beyond the defined platform. I have attached a draft scheme plan denoting these platforms in **Appendix [A].**

8. Recognising that the s42A report identifies all other effects as no more than minor, I consider that the provision of the suggested building platforms will resolve the outstanding concern of the s42A author to the extent of mitigating effects of potential future built form.

Precedent

9. The s42A report concludes the following with respect to precedent:

> The granting of the subdivision and land use consent at the density proposed is considered likely to set a precedent for land elsewhere in the Rural Residential portion of the Rural Resource Area to be subdivided in a manner that fails to meet the 2-hectare average. Additionally, the granting of the land use consent alone, may set an expectation that the residential density proposed is appropriate for the zone and establish an expectation for the approval of a future subdivision. Additionally, the granting of a subdivision at this scale, in combination with the existing pattern of development in the immediate locality, has the potential to cumulatively undermine the anticipated outcomes of the District Plan.

10. I consider that the concern around precedent is overstated and misinterprets the purpose of the averaging rule. The purpose of the District Plan's averaging rule lies in the explanation to Policy 4.4.10 in relation to rural subdivision and development:

> Council's duty under the Resource Management Act is to control the effects of activities. The creation of a new allotment on a plan has, in itself, no real direct effect on the environment. However, **the control of subdivision, particularly in respect of minimum (and average) allotment sizes, is a tool which assists in controlling the adverse effects of the land use that follows** thereby promoting sustainable management. Minimum allotment sizes for subdivision are considered to be the best practicable methods to control adverse effects**. In some instances adherence to an arbitrary minimum is not always the most appropriate approach. This is particularly true when subdivision for existing activities,** network utilities, and reserves and heritage resources are considered. **Furthermore, there is no difference in terms of effects on the environment between development on an 8 hectare property and the same development on property having a slightly lesser area**. Because of these issues, subdivision in the Rural Resource Area is subject to a three tiered approach which will allow Council to assess the effect of the subdivision in terms of the objectives of the plan.

11. The key point is that the District Plan is not concerned with cadastral boundaries for their own sake. That is clearly articulated whereby the explanation confirms that there is no real difference in terms of effects on the environment between development on an 8 hectare property and the same development on properties having a slightly lesser area.

12. The concern is the intensity and pattern of *future* residential development. Future development is emphasised given the explanation for Policy 4.4.10 explicitly states that in some instances, adherence to an arbitrary minimum is not always the most appropriate approach. This is particularly true for subdivision around existing activities. The point of the explanation is that the provision of an averaging criteria is nothing more than a "tool" for managing adverse effects.

13. When we examine Policy 4.4.10 more closely, the policy is effectively seeking to ensure that "effects" of subdivision avoid, remedies or mitigates a suite of environmental concerns. The policy infers the provision of averaging as a means of achieving these outcomes. The policy **does not say** to maintain an average allotment of 2 hectares, or "avoid subdivision" if the density exceeds the zone. Instead, it identifies the environmental outcomes sought and then identifies minimum and average allotment sizes as a method (or in the case of the explanation, a tool) of achieving those outcomes. As we have established, Ms Banks and I agree the effects of the subdivision are no more than minor. In my view, the proposal is consistent with the intent of 4.4.10.

> Policy 4.4.10 - To ensure that the subdivision and use of land in the Rural Resource Area avoids, remedies or mitigates **adverse effects** on:
>
> a. The open space, landscape and natural character amenity values of the rural environment in particular the hills and ranges,
>
> b. The natural character and values of the District's wetlands, lakes, rivers and their margins,
>
> c. The production and amenity values of neighbouring properties,
>
> d. The safety and efficiency of the roading network,
>
> e. The loss of soils with special qualities,
>
> f. The ecological values of significant indigenous vegetation and significant habitats of indigenous fauna,
>
> g. The heritage and cultural values of the District,
>
> h. The water quality of the District's surface and groundwater resources, and
>
> i. Public access to or along the rivers and lakes of the District,

particularly through the use of minimum (and average) allotment sizes.

14. As detailed in my evidence in chief, I consider that the proposal is consistent with the remainder of the relevant objectives and policies of the plan.

15. This proposal is not seeking an outcome that is inherently at odds with the receiving environment. We can see a significant number of examples whereby non-complying subdivisions have been deemed appropriate in this Zone, including most recently at 78 Pearson Road, which this Panel considered in and approved in January this year, and involved the two-lot subdivision of a comparable sized allotment (1.95 hectares). This property is one of the few in the sense that it contains two, long established dwellings, that have effectively set the character of the site, which in my view, is entirely consistent with the overall intensity of domestication that characterises the immediate adjoining area.

16. The s42A report does not raise any concerns that this proposal cumulatively "tips the balance" such that a threshold to absorb the subdivision would be exceeded. I do not consider the proposal represents an outcome that would cumulatively undermine the prevailing character of the area, recognising that this proposal seeks to effectively contain additional density (cadastral boundaries) within an existing cluster of equal sized allotments, and does not result in any tangible or material increase in domestication along Pearson Road.

17. As I have assessed, the proposal has appropriately applied the relevant tool one is required to consider under the District Plan, being the averaging criteria, and has been evaluated against the relevant policy framework to determine its appropriateness. Recognising that the proposal generates effects that are no more than minor, and is not contrary to the relevant policy framework and passes both limbs of the s104D Gateway test, I do not see how this proposal represents an adverse precedent that would materially undermine the District Plan. The Panel are reminded that this is not the first non-complying activity to be considered along Pearson Road.

Submissions

18. Of the three opposing submissions, two of those submissions simply seeks for the refusal of the proposal unless an existing Right of Way is relinquished. The applicant is agreeable to relinquishing the ROW as it relates to their property. By extinguishing easement Area C DP 356255, the "link" to the wider ROW is effectively removed. This in effect renders the remainder of the ROW "inaccessible" from the subject site, and achieves the outcome sought by the two submitters.

19. The submission from Gillian Wilson and Raewyn Paviour raises concerns in relation to precedent and cumulative effects. Both of these points have been addressed by the relevant matters detailed in my evidence.

Conditions

20. The provision of a reverse sensitivity condition is considered appropriate in light of Ms Bank's reference to the reverse sensitivity controls that were imposed under RC180151. It is proposed to simply replicate the reverse sensitivity condition.

21. The provision of conditions requiring the registration of the building platforms and a subsequent consent notice condition restricting all buildings to those platforms.

22. It is considered that Condition 7(c), which requires the submission of a wastewater report prior to s224C, is no longer necessary, as I note later in my evidence, that a wastewater report has now been produced and appended to my evidence.

Part 2

23. I remain of the opinion that the proposal promotes the sustainable management of natural and physical resources as contemplated by section 5 of the RMA.

24. The simple fact of the matter, is that the site contains two, established buildings, both are capable of accommodating long term residents, in a District experiencing substantial growth. There are no adverse effects being generated by the proposal and the concerns around future cumulative effects can be mitigated by conditions. Pearson Road itself is characterised by allotments smaller than those proposed by this subdivision (some of which have been established by way of a NC consent already), and represents an outcome that in my view, will not compromise the integrity of the District Plan, when appreciating that adherence to an average is not a strict environmental outcome, but rather is a tool to achieve particular outcomes. We can appreciate that this proposal provides for the wellbeing of present and future landowners while ensuring that any adverse environmental effects are avoided, remedied or in this particular case, mitigated. Accordingly, I consider the proposal to be consistent with the purpose and principles of the Resource Management Act 1991.