

5 May 2021

14 CONFIDENTIAL REPORTS

21.3.22 DELEGATED DECISION UNDER SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT 1991

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Public Excluded

Section under the Act	The grounds on which part of the Council or Committee may be closed to the public are listed in s48(1)(d) of the <i>Local Government Act 2002</i> .
Sub-clause and Reason:	s48(1)(d) - that a right of appeal lies to any court or tribunal against the final decision of the Central Otago District Council in those proceedings.

1. Purpose of Report

To consider the recommendation by appointed independent hearings panel to decline proposed private Plan Change 14 to the Central Otago District Plan.

Recommendations

That the Council

- A. Receives the report and accepts the level of significance.
- B. Accepts recommendation pursuant to clause 29 (4) (a) of the First Schedule of the Resource Management Act 1991 to decline Plan Change 14 to the Central Otago District Plan.
- C. Serve a copy of its decision on the person who made the request and every person who made a submission/further submission along with a statement of the time within which an appeal may be lodged.
- D. Publicly notify that it has declined the plan change.
- E. Provide a copy of the decision to decline Plan Change 14 to every library in the District.

2. Background

On 31 May 2019, Council received a private plan change request from NZ Cherry Corp (Leyser) LP Limited ("NZ Cherry Corp") made in accordance with Section 73(2) and Clause 21 of the First Schedule to the Resource Management Act 1991, to rezone part of a 244-hectare site legally described as:

- Lot 2 Deposited Plan 330709 and Section 4, 11, 98, 101, 103 Block III Cromwell Survey District and Part Section 5, 25 Block III Cromwell Survey District and Part Run 1201R (CFR: 126180)
- Section 54 Block III Cromwell Survey District (CFR: OT106/99)
- Section 27-28, 96, 99, 102 Block III Cromwell Survey District (CFR OT7C/632)
- Section 26, 100 Block III Cromwell Survey District (CFR: OT7C/633)

The site is located at 144 Ripponvale Road, located in the north-west of Cromwell, and known as “Shannon Farm” as depicted below (2018 photograph):



The proposal seeks to change the zoning of land at Ripponvale Road near Cromwell from Rural Resource Area to Rural Resource Area (5) to enable the “comprehensive and integrated” subdivision and development of the land. The plan change also provides for enlargement of the area subject to the Outstanding Natural Landscape notation and for a reduction in the Significant Amenity Landscape notation on land subject to the private plan change request.

The proposed zoning would provide for up to 160 dwellings on allotments ranging from 2,000m²–4 hectares, and requires the expansion of the adjacent NZ Cherry Corp orchard to take place prior to establishment of dwellings.

Plan Change 14 was accepted by Council for processing pursuant to Clause 25(2)(b) of the First Schedule to the Resource Management Act 1991 on 14 August 2019 and publicly notified on 16 November 2019.

94 submissions were received, and a summary of submissions was notified on 15 February 2020. 75 further submissions were received.

The requestor asked for the plan change be heard by an independent commissioner, and an agreement was reached with the requestor that a Panel be formed consisting of one independent commissioner and the chair of the Hearings Panel. The Panel commenced a hearing in relation to Plan Change 14 on 25 May 2020 via Microsoft Teams (due to COVID-19 restrictions) and reconvening late 2020 again via Teams. The meeting was closed on 19 April 2021. A copy of the interim recommendation report is attached. The full decision of the Panel is expected to be available 3 May 2021.

3. Discussion

Plan Change 14 is a private plan change request which seeks to create a new special purpose zone on the Shannon Farm at Ripponvale Road. The plan change seeks to use the existing objectives in

the District Plan but seeks to introduce a new policy allowing for integrated rural lifestyle development.

The hearings panel appointed to consider the proposed plan change has considered the proposal, along with all evidence presented by the requestor and submitters and determined that the plan change should be declined. The substantive reasons for this decision are as follows:

- It has not been demonstrated adequately that the demand for rural lifestyle cannot be met on other sites.
- Part of the proposal is to provide for a large number of allotments between 2000m² and 3000m² clustered in the centre of the site, which the panel have considered to be a significant change to the rural character of Ripponvale Road.
- The site is located near established vineyards and orchards and any future residents will be exposed to effects associated with those activities, creating a potential for reverse sensitivity issues arising (i.e. complaints that may limit rural activities).
- The proposal is inconsistent with the Regional Policy Statement in relation to potential effects on high quality production land.
- Visual effects in terms of the extent of change proposed to the rural character of Ripponvale Road.
- The proposed changes are not the most appropriate way to implement the existing objectives of the Rural Resource Area or the proposed new policy.

4. Options

Option 1 – (Recommended)

To accept the recommendation of the independent Hearings Panel and decline Plan Change 14 as outlined in the recommendation from the Panel.

Advantages:

- Accepting the recommendation on the plan change will enable the land to continue to be used for productive purposes.

Disadvantages:

- Declining the plan change may result in an appeal from the requestor.

Option 2

To not accept the recommendation of the independent Hearings Panel.

Advantages:

- No apparent advantages.

Disadvantages:

- Not accepting the recommendation of the independent Hearings Panel may result in reputational damage for Council.
- Risk of judicial review.

5. Compliance

Local Government Act 2002 Purpose Provisions	This decision enables democratic local decision making and action by, and on behalf of communities as Plan Change 14 has been through a publicly notified process in accordance with the provisions of the Resource Management Act 1991.
Financial implications – Is this decision consistent with proposed activities and budgets in long term plan/annual plan?	Yes
Decision consistent with other Council plans and policies? Such as the District Plan, Economic Development Strategy etc.	The decision is made in accordance with the provisions of the Resource Management Act 1991.
Considerations as to sustainability, the environment and climate change impacts	Plan Change 14 to the Central Otago District Plan has been considered under the provisions of the Resource Management Act 1991. Any potential environmental impacts have been considered as part of that process.
Risks Analysis	There are no risks associated with decline of Plan Change 14, other than an appeal, which is anticipated given the Resource Management Act 1991 makes provision for this.
Significance, Consultation and Engagement (internal and external)	High degree of significance and all legislative process requirements under the provisions of the Resource Management Act 1991 have been followed.

6. Next Steps

No additional communication is required beyond that detailed in the recommendation.

7. Attachments

Appendix 1 - PC14 Interim Recommendation.docx [↓](#)

Report author:


Ann Rodgers
Principal Policy Planner
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Reviewed and authorised by:


Louise van der Voort
Executive Manager - Planning and Environment
23/04/2021