IN THE ENVIRONMENT COURT AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA KI ŌTAUTAHI

ENV-2024-CHC-

Under The Resource Management Act

1991 (the **Act**)

In the Matter of an appeal pursuant to clause

14 of schedule 1 of the Act,concerning the Central OtagoDistrict Plan – Plan Change 19

Between LINDSAY AND ROBYN

CROOKS
Appellant

And CENTRAL OTAGO DISTRICT

COUNCIL Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION
ON PLAN CHANGE 19



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NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON PLAN CHANGE 19

To: The Registrar

Environment Court

Christchurch Registry

- Lindsay and Robyn Crooks (the Crooks) appeal against a decision of the Central Otago District Council Plan Change 19 (PC19).
- 2. The Crooks made a submission regarding the Decision (OS72)
- The Crooks are not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
- 4. The Crooks received notice of the decision on 27 June 2024.
- 5. The decision was made by Central Otago District Council (CODC).
- 6. The part of the decision the Crooks are appealing is:
 - (a) The PC19 Hearing Panel's Report's section 5.4.2 which concluded that the minimum lot size for the Large Lot Residential Zone (LLRZ) to be 1500m². The question of the appropriate minimum lot size for LLRZ in North Cromwell was further discussed at section 5.5.1 of the Decision.
- 7. The reasons for the appeal are:
 - (a) The Crooks own the property at 2 Frasers Court (Site), which is zoned LLRZ under PC19. The Site is 4400m². Subdividing the Site consistent with the LLRZ subdivision rules in the Decision would result in two 2200m² lots. This is considered to be an inefficient outcome. If the Site was subdivided into three, the average lot size would be 1467m² requiring a non-complying resource consent application.
 - (b) The Central Otago District is experiencing rapid growth. To meet the expected demand, the efficient use of residential land is

necessary. Well planned management of residential land will prevent urban sprawl and have a positive effect on amenity. The Site and area surrounding it in North Cromwell is well located to enable further residential development to give effect to the provisions of the National Policy Statement for Urban Development 2020.

- (c) The Panel erred in determining the minimum site size as 1500m² for LLRZ. A minimum site density of 1000m² would be consistent with the LLRZ objectives and policies as it would result in a well-designed and well-connected urban area and an increase in potential housing capacity.
- (d) The Site is in North Cromwell. The density sought by the Crooks is not an anomaly for the area and would not decrease amenity. The Decision erred in concluding that a lower minimum density would adversely affect amenity values. Such an approach is inconsistent with the National Policy Statement for Urban Development 2020.
- (e) Reducing the minimum lot size for LLRZ is consistent with the objectives and policies for the zone. The lot sizes would allow for good quality on-site amenity and the amenity of adjacent sites would be maintained.
- (f) The Panel was wrong in finding that a reduced lot density for LLRZ would diminish the privacy enjoyed by residents.
- (g) Reducing the minimum lot size for the LLRZ gives effect to the relevant provisions of the National Policy Statement for Urban Development 2020.
- (h) Increasing the density of LLRZ is consistent with the Council's function and the purpose of the Resource Management Act 1991.
- 8. The Crooks seek the following relief:
 - (a) That the minimum site density in LLRZ is amended to 1000m². The associated LLR zone and SUB rules and standards are

amended to reflect a minimum site density of 1000m² within the LLR zone.

- (b) Alternatively, the Land in North Cromwell is identified as Large Lot Residential Zone Precinct 1.
- 9. The following documents are attached to this notice:
 - (a) A copy of the Crooks original submission;
 - (b) A copy of the relevant decision; and
 - (c) A list of names and addresses of persons to be served with a copy of this notice.
- This Notice of Appeal will be served on all parties who submitted on Plan Change 19.

Bridget Irving / Hannah Perkin

Solicitor for the Appellant

Date: 17 July 2024

XIII

Service details for Appellant:

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Advice to Recipients of Copy of Notice

How to Become a Party to Proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.



Resource Management Act 1991

Submission on Notified Proposed Plan Change to Central Otago District Plan

Clause 6 of Schedule 1, Resource Management Act 1991

(FORM 5)

To: The Chief Executive
Central Otago District Council
PO Box 122
Alexandra 9340

Details of submitter

Name: Robyn & Lindley Crooks.
Postal address: P.O. Box 141 Riversdale (2 Frager Gourt) (Or alternative method of service under section 352 of the Act)
Phone: 027 2209766.
Email: 1 Crooks 2 @ g mail. com.
Contact person: (Name & designation, if applicable)
(Name & designation, if applicable)
This is a submission on proposed Plan Change 19 to the Central Otago District Plan (the proposal).
I am I am not* a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (*select one)
*I / We am / am not (select one) directly affected by an effect of the subject matter of the submission that: (a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition. *Delete this paragraph if you are not a trade competitor.
The specific provisions of the proposal that my submission relates to are: (Give details, attach on separate page if necessary) The current district plan was adopted Some
thirty plus years ago and no longer serves

This submission is:

(Attach on separate page if necessary) Include:

- whether you support or oppose the specific parts of the application or wish to have them amended; and
- · the reasons for your views.

I support the zone changes considered in plan Change 19 in an attempt to
accomposate the phenominal growth of the area and to white the when spread 1/We seek the following decision from the consent authority:
(Give precise details, including the general nature of any conditions sought)
To approve the application. to allow for larger sections to
be subdivided to more readily represent a
countinually growing township.

- I support leppose the application OR neither support nor oppose (select one)
- I wish-I do not wish to be heard in support of this submission (select one)
- *I / We will consider presenting a joint case if others make a similar submission *Delete this paragraph if not applicable.

In lodging this submission, I understand that my submission, including contact details, are considered public information, and will be made available and published as part of this process.

Signature

6 Grools Date 1/9/22

Submissions close at 4pm on Friday 2 September 2022

Submissions can be emailed to districtplan@codc.govt.nz

Note to person making submission:

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that a least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

- township, the site is able to be serviced by Councils Infrastructure, and it would assist in providing supply in an area where there is high demand.
- 155. Following the hearing of submissions Ms White in her reply considered that given the loss of the productive use of the land and the high level of amenity and character the community derive from the rural use of the site, and should the Panel agree to recommend that the Council consider growth options in Bannockburn further through a township-specific Spatial Planning exercise, then it would be appropriate to consider the Domain Road vineyard site as part of such a process, rather than rezoning it now.

Panel Findings

- 156. The Panel has considered the submissions received in relation to the proposed re-zoning of the Domain Road Vineyard and while the Panel considers that the Vineyard site is a logical extension of the township, as indicated by Ms White, this needs to be balanced against the loss of the productive use of the land and the high level of amenity and character the community derive from the rural use of the site.
- 157. The Panel finds that it would be more appropriate for the Domain Road Vineyard to remain rural at this time.

5.4.2 Bannockburn Density/ Minimum Allotment

- 158. PC19 applies the LLRZ to Bannockburn Township, which results in a minimum density requirement of 2000m2. This was applied to be broadly consistent with the current zoning, which, while applying a lower minimum of 1500m2, requires an average of 2000m2.
- 159. The Panel heard continued support from some submitters for the proposed 2000m2 minimum being applied, on the basis that this is considered consistent with character of the area.
- 160. Other submitters continue to support a lower minimum of 1000m2 applying in Bannockburn. Some noting that there are already some sections in Bannockburn of this size, and it is therefore better to plan for this rather than allow it only on an ad hoc basis as it would assist in addressing the lack of supply to meet demand and provide for a more flexible range of densities at Bannockburn reflecting the pattern of development which has occurred to date in Bannockburn and provide for a more efficient use of land for housing.
- 161. While supporting a lower minimum lot size of 1000m2, Mr Barr in his evidence seeks that this is coupled with an average of 1500m2 being applied. He considers that 1500m2 is a better reflection of the development which has occurred to date and not detrimental to character of Bannockburn.
- 162. This was supported by Mr Milne, who states that the pattern of settlement in Bannockburn consists of large lot residential varying in size from 1500m2 3000m2 with some smaller 1000m2 sections closer to town centre. He considers 1000m2 min and

1500m2 average to be in keeping with residential development within wider settlement area.

- 163. Evidence presented by Jake Woodward opposes increase in minimum allotment size in Bannockburn from 1500m2 to 2000m2, rather supporting a minimum of 1500m2 being applied given the variation in lot sizes below 2000m2. Mr Woodward does not consider that applying a 2000m2 minimum is truly consistent with the existing amenity and character. He also considered that a lower minimum (i.e. beyond 1500m2) would result in a "fundamental shift in character over and above what presently characterises the immediate vicinity", with vicinity in this context being the area near the submitter's property.
- 164. Ms White in her reply noted that development at this lower level might, over time, result in a lower overall average lot size, but noted result in a perceptible shift in the character of the township.
- 165. The Panel notes the support for applying a 2000m2 minimum but accepts that as the current framework allows for smaller lots of 1500m2, applying this as a minimum would still be consistent with the existing character of the Township.
- 166. We have considered a number of submissions in relation to the applicability of a reduction in minimum allotment size agree with Ms White's view that while a minimum lot size of 1000m2 would provide greater flexibility and more opportunity for infill, it could alter the character of the township, there is a different character between Pisa Moorings (where there is a 1000m2 minimum lot size) and Bannockburn.
- 167. As noted earlier in this decision, while the NPS-UD includes direction in relation to providing sufficient development capacity, this is within a framework that overall seeks to ensure well-functioning urban environments that provide for community wellbeing.
- 168. The Panel has reached a view that it is entirely aligned with the NPS-UD to apply a lot size in Bannockburn that is consistent with the current amenity and character of the Township, which contributes to the variety of housing options across the wider District.

Panel Findings

- 169. The Panel agrees that a reduction in the minimum allotment size to 1500m2 would not be material in the context of Bannockburn, noting Ms Muirs advice to Ms White in her reply that this level of development can be serviced in terms of existing infrastructure.
- 170. This is consistent with the minimum allotment of 1500m2 provided for in the operative District Plan.
- 171. The panel notes that the while the requests for a reduction in density were largely in the context of specific properties in the proposed LLRZ zoning in Bannockburn, the submissions and evidence submitted were related to the wider LLRZ.

- 172. Rather than create another bespoke Precinct that would apply to Bannockburn alone, Ms White has provided a recommendation that would apply to the whole LLRZ on the basis that there is sufficient scope to apply an amendment.
- 173. Ms Whites recommendation also includes a provision that there be only one residential activity on any allotment with an area of less than 1500m2. The Panel considers this to be an appropriate addition to performance standards to maintain an overall density.
- 174. The Panel agrees with this recommendation and finds that it is appropriate to amend the density and subdivision standards as follows:

LLRZ-S1	Density	Activity Status where compliance not achieved:
Large Lot Residential Zone (Excluding Precincts 1, 2 & 3)	 The minimum site area per residential unit is 20001500m² or On any site less than 1500m², one residential unit per site. 	NC

Amend SUB-S1, as it relates to the LLRZ (outside precincts), as follows:

Large Lot Residential	6. The minimum size of any allotment shall be no less than	NC
Zone (excluding	2000 1500m².	
Precincts 1, 2 & 3)		

175. In terms of s32AA of the RMA, the Panel agrees with Ms Whites assessment that the change in density will still achieve LLRZ-O2, while being slightly more efficient through providing greater flexibility and variety in lot sizes across the zone.

5.5 PC 19 Proposed Zoning - Cromwell

5.5.1 North Cromwell



Figure 4 - North Cromwell

- 176. As noted in the s42A report (Stage 2) there were a significant number of submissions relating to the areas north of State Highway 8B proposed to be zoned LRZ and LLRZ, and a range of different outcomes sought. Submitters appearing at the hearing included those:
 - a. Supporting application of LRZ across the area, on the basis that:
 - i. the 2000m2 minimum under LLRZ would not allow for much infill, due to the position of current houses.
 - ii. 4000m2 lots are wasteful, and setbacks can be applied in relation to lots adjoining nohoanga or lake
 - b. Supporting 1000m2/1500m2 applying in relation to a block on Shortcut Road.
 - c. Supporting application of LLRZ (2000m2 minimum).
 - d. Supporting retention of operative plan approach (4000m2 minimum), on the basis that:
 - iii. As development of this area is recent, the likelihood of additional yield from this area occurring may not be realised.
 - iv. It provides variety in housing options, with other areas providing higher density options.
 - v. the current zoning is in effect a rural residential zone, and this should be retained. The Spatial Plan does not recognise this area as being rural residential and was not subject to suitable engagement, nor did it consider other opportunities for urban growth.

- vi. this is the only remaining RRA (6) zone within the Cromwell Urban boundary, with other areas with this zoning rezoned before they were developed.
- vii. The rezoning does not align with Policy 7.2.3
- viii. From a servicing perspective the area is treated as rural, smaller sections would create an expectation of urban services, and it is not clear how such services would be retrofitted for existing lots.
- 177. Mark Mitchell ⁴⁸seeks application of a precinct to a large portion of this area of North Cromwell (but not the Thelma Place area) applying a 1500m2 minimum. This is supported by evidence prepared by Campbell Hills, who considers the practical application of different minimum lots sizes in this area. Based on an assessment of this area, Mr Hills considers that the LLRZ minimum density of 2000m2 would not provide for particularly practical subdivision designs, given the location of existing development on developed sites, considering that a minimum of 1000m2 would encourage "awkward" subdivision layouts, and that in combination with the site coverage, could compromise the character and amenity of this area.
- 178. Ms Rachel Law has provided planning evidence to support the requested MRZ zoning of land in the northwestern area of Cromwell (#51 D & J Sew Hoy, Heritage Properties Ltd and #21 Brian De Geest). Ms Law's evidence notes that the McNulty Inlet is identified in the Cromwell Spatial Plan as a "Community Node".
- 179. While some submitters may consider that the area has a 'rural' feel, the predominance of residential, not rural activities in this area also means it does not align with the 'rural lifestyle zone' under the National Planning Standards. The area is clearly a residential zone.
- 180. The Spatial Planning exercise involved significant community engagement, that specifically considered opportunities for growth, as outlined in the Spatial Plan document itself. Given the range of requests in terms of the zoning of this area, the question is what zone is most appropriate to apply to this area moving forwards, taking into account a range of factors including the Spatial Plan outcome.
- 181. The retention of the current minimum allotment size of 4000m2 (by applying a LLRZ zoning and a new precinct applying a higher minimum allotment size) would retain this character and amenity. Having reconsidered the submissions, the Panel accepts that the existing density results in a particular character and level of amenity that is important to some residents in this area.
- 182. In the Stage 2 s42A report, Ms White did not make a recommendation on the zoning of this area, given the volume and disparity of submissions. She did however recommend that none of the area be zoned MRZ, and that a single zoning be applied to the area.
- 183. The Panel agrees with Ms White that the application of LLRZ, would provide for some infill opportunities, with a subtle change in the character, without compromising the current amenity levels, and that applying a LLRZ across the developed portions of this area would

⁴⁸ Submitter #113

strike an appropriate balance between maintaining the predominance of open space over built form (LLRZ-O2(2)) while better aligning with the intent of the Spatial Plan to provide for additional development in this area.

- 184. The Panel notes there are some larger blocks within the area that are not developed, including those of Mr Mitchell, D & J Sew Hoy Heritage Properties, and De Geest. The Panel further notes that because they are larger properties, they could be more comprehensively developed at a higher density under the recommended approach to Comprehensive Residential Development. Ms White has also suggested that it may be appropriate to apply LLRZ Precinct 1 (1,000m2 minimum) to these properties, because they would be able to be developed in a more integrated manner, rather than through infill.
- 185. While the development at this higher density would have a slightly different character to that of the overall area, the Panel agrees with Ms White that it would not undermine the character of the LLRZ areas (because it would apply only to discrete sites, rather than infill throughout the area) and would provide for more variety.
- 186. The Panel also agrees with Ms White that a different zoning being applied to larger undeveloped sites within these areas is appropriate and that LLRZ Precinct 1 is the equivalent of the current zoning of the De Geest site and aligns with the density sought by Mr Mitchell.
- 187. With respect to the MRZ sought by Ms Law⁴⁹, the Panel does not consider that the proximity of these sites to the McNulty Inlet are sufficient to justify their rezoning to MRZ. The area is not within a walkable distance to either commercial areas or other key community facilities unlike MRZ identified in on the outskirts of Alexandra are proposed to be supported by addition of a new commercial area, and other MRZ areas towards edge of Cromwell township are located close to commercial areas. By contrast, the Spatial Plan does not propose commercial activity in the McNulty Inlet area.
- 188. With respect to the D & J Sew Hoy Heritage Properties site, the Panel accepts Ms Whites recommendation in her reply that applying MRZ on the basis that it is in similar proximity to the town centre, as other MRZ sites. The Panel agrees with Ms White that the Freeway Orchard site is both larger, allowing for a more comprehensive development, and that it is surrounded by LRZ. The D & J Sew Hoy Heritage Properties site is, by contrast, surrounded by a lower density of development, and application of MRZ would, in particular, leave Lakefield Estate as somewhat of an island in a higher density area.

Panel Findings

189. The Panel agrees with Ms White that MRZ is not appropriate in this area and that LLRZ (Precinct 1) is appropriate to be applied to the larger 'greenfield' sites (including the De Geest and Heritage Properties sites) providing for a higher level of development on these sites, and in addition, the Comprehensive Residential Development pathway would allow for development below the minimum allotment sizes otherwise applying, where it is undertaken in a comprehensive manner.

⁴⁹ On behalf of submitters #21 and #51

- 190. Having considered the submissions, section 42A recommendations, evidence presented at the hearing and Ms Whites reply, the Panel is of the view that LLRZ should be applied to the areas north of State Highway 8B (excluding Wooing Tree), other than those areas identified in red in figure 5.
- 191. That the LLRZ (P1) is applied to the properties identified in red in figure 5.



Figure 5 - North Cromwell LLRZ (P1)

- 192. The Panel accepts the s32AA evaluation of Ms White, that the application of LLRZ across the developed parts of this area will assist in achieving the outcomes sought for LLRZ of a predominance of open space over built form, while also retaining good quality on-site amenity and amenity for adjoining sites. While this may result in a slight change in character, it will maintain the high level of amenity associated with the existing development lots in this area.
- 193. Providing for a greater level of density on undeveloped sites through application of LLRZ (P1) will provide greater opportunities for development in the remaining parts of this area, and while there will be a difference in character in these areas when compared to the overall area, the Panel is of the view that this aligns with the LLRZ objectives and will not detract from the amenity of the area as a whole.

194. There are some lost opportunity costs associated with the recommended approach, in that it will not provide for the level of development that was proposed in PC19, or anticipated in the Spatial Plan but the Panel has formed the view that these costs are outweighed by the benefits of retaining key aspects of amenity and character that are clearly highly valued by the community.

5.6 Zoning Requests – Alexandra

5.6.1 Centennial Ave / Clutha Street / Ashworth Street 'Block

195. Hayden Lockhart⁵⁰ seeks that higher density is provided for in the LRZ area in the Centennial Ave / Clutha Street / Ashworth Street block (refer figure 6 below).



Figure 6 – Alexandra

196. The submitter notes that some sections in this area have already been subdivided, resulting in a mixed density in this area, and considers it would be "fairer and more visually appealing to work towards a similar density", and consistent with the intent to have higher density closer to the centre of town.

Panel Findings

197. The Panel is of the view that the decision to reduce the density in LRZ to 400m2 as indicated earlier in this decision will go some way to addressing the concern of the submitter by allowing for infill of 800-1000m2 sections.

⁵⁰ Submitter #42

List of persons to be served

Central Otago District Council districtplan@codc.govt.nz No. **Submitter Name** Email 19-1 MA and JM Bird mervbird@xtra.co.nz John Wekking
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Deborah Glenis Reece
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Fire and Emergency New Zealand (Fire and Emergency

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