

IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY

ENV-2024-CHCH-

I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE

UNDER	the Resource Management Act 1991 (the RMA)
IN THE MATTER	of an appeal under Schedule 1, Clause 14(1), of the Act
BETWEEN	ROWAN AND JOHN KLEVSTUL Appellant
AND	CENTRAL OTAGO DISTRICT COUNCIL Respondent

NOTICE OF APPEAL ON BEHALF OF ROWAN AND JOHN KLEVSTUL

DATED 30 JULY 2024

TO: The Registrar
Environment Court
CHRISTCHURCH

AND TO: The Respondent

Notice of appeal

1. Rowan and John Klevstul (the “**Klevstuls**”, “**we**”, “**our**”, or “**I**”, the latter being reference to myself, Rowan Klevstul, as I have been responsible and hands on for the advancement of the interests of my brother and I, in respect of this Plan Change 19 (“**PC19**”) process, appeal the following decision made by the Central Otago District Council (“**CODC**” or “**Council**”):

“A decision on Plan Change 19 which “proposed to make a complete and comprehensive suite of changes to the way the District's residential areas are zoned and managed, and giving effect to the zoning outcomes of the Cromwell and Vincent Spatial Plans.”

(“**Decision**”)

2. We made a submission on PC19 on 2 September 2022, as a group comprising of John Klevstul and Rowan Klevstul, and our next-door neighbour, Mr. Steve Davies, who joined the group submission using the business name Rubicon Hall Road Limited. It was registered as submission #163 to PC19. Multiple notices were given to the Council (from 20 October 2022 onwards) that the submission was from then on to be carried forward on behalf of the Klevstuls only, in respect of their land only. As can be seen in the Decision, this has never been recognised by the Council, just as key elements of our submission and relief sought (including as later amended) were not recognised by the Hearing’s Panel or the Council. To avoid any doubt, this appeal is lodged by the Klevstuls only, and relates only to our land at 2 Schoolhouse Road (DP460583 Lot 1) Bannockburn.

3. We are not a trade competitor for the purposes of Section 308D of the Act. We are landowners looking to put unproductive land to sensible use as part of providing for the shortfall of capacity for growth in Bannockburn identified by the Council and not satisfied through the PC19 process.
4. I received notice of the Council's Decision on 8 June 2024.

Decision/ part of Decision appealed against

5. The Decision refused our request to rezone our land at 2 Schoolhouse Road, Bannockburn (some **7.3ha**), to the proposed Large Lot Residential Zone ("**LLRZ**"), which was the relief we were ultimately seeking by the end of the hearing.
6. All aspects of the Decision relating to this outcome are appealed, including the parts of the Decision – and flawed processes as part of that Decision – that have influenced or otherwise impacted on or affected the Council's rejection of our request to have our land zoned LLRZ.

Reasons for the appeal

7. There are a number of fundamental errors in the Decision, including:
 - (a) A failure to consider and address the relief that we were actually seeking by the end of the hearing.
 - (b) A failure of Council to address the lack of capacity at Bannockburn and plan for residential growth over the 30-year timeframe canvassed by PC19.
 - (c) A decision to defer rezoning of our site pending a further town-specific Spatial Plan or other such consultation process for Bannockburn has been completed. And, that this was not notified in the s32A Report, nor at any time during the PC19 submissions or hearing's processes.

(d) A failure to find in favour of the specific evidence that we put forward in respect of infrastructure.

(e) A failure to find that the CODC is a Tier 3 authority despite Council's advice that it could make such a finding through this process.

8. General reasons are also provided for the appeal.

Failure to consider and address the relief actually sought

9. Unfortunately, and frustratingly, the record of Decision at paragraphs [310]-[312], does not reflect the clear and definitive closing request that we made in terms of relief sought.¹

10. We made consistent attempts in formal correspondences to make sure that the Panel understood what we were seeking,² but the Decision and the Panel's advisors kept – incorrectly – going back to our original submission. The Decision and Panel accordingly makes fundamental errors, even in matters as basic as the land parcel size covered by the rezoning request, the identity of the party actually submitting, and the final form of relief sought.

11. Therefore, the Decision ruled on an outdated version of our request, despite multiple attempts to clarify with the Panel the specific changes made to the rezoning request submission. So, regrettably, the Panel and Decision proceeded on an erroneous basis.

12. In particular, the Decision still references John and Rowan Klevstul *and Rubicon Hall Limited* as the joint submitters of submission #163.³ This is factually incorrect, as we (John and Rowan Klevstul) advanced the submission without Rubicon (whose interests were taken forward separately by Mr Davies, in his

¹ See "Plan Change 19 – Decision of the Central Otago District Council Hearings Panel," 5.8.3: Pages 56 – 58.

² That being the supplementary evidence and correspondences from Mr Rowan Klevstul, Mr James Gardner-Hopkins, and Mr Brett Giddens dated 31st of August, 2023 and September 1, 2023, as provided to CODC Hearing's Administrator, Tarryn Lines, and further correspondence from Mr. Gardner-Hopkins and Mr Klevstul seeking to clarify the position for the benefit of the Panel, dated 19th September, 2023.

³ See "Decision," 5.8.3. Pages 56 – 59.

own personal submission to PC19, registered as submission #147). This was communicated to the Council multiple times, including:

- (a) To the then Chief Executive, Sanchia Jacobs, by my then Barrister and project manager, Dr Robert Makgill, on 20 October 2022;
 - (b) In further formal correspondence by Dr Makgill to Ann Rodgers, on November 2, 2022.
 - (c) By Mr James Gardner-Hopkins, who had taken over as project manager, in his memorandum presented at the Zoning Hearing in Cromwell on 25 May 2023.
 - (d) I also gave details of the error in my landowner's evidence filed at the Zoning Hearing, and again in a letter (dated 31 August 2023) responding to the Minute Four Peer Review evidence.
13. Perhaps even more important than the confusion over who the submission was on behalf of, is what land the submission actually relates to, and what relief is sought in respect of that land. The Decision still misunderstands what land is sought to be rezoned and the final relief sought.⁴ This is despite our many attempts to communicate for the record what was being sought in respect of which land.
14. To illustrate the error further, our evidence as tabled at the Zoning Hearing covers the correct land that we (Rowan and John Klevstul) were seeking to change. That being **7.3ha** (only) at 2 Schoolhouse Road, Bannockburn. This is not acknowledged in the Decision, nor in the s42A report(s) of Ms Liz White. As already described, both documents continue to refer to the submission as

⁴ To be clear: The initial submission was a joint submission by John and Rowan Klevstul, and Rubicon Hall Limited parties. The joint submission was formally exited by Mr. Steve Davies of Rubicon Hall Limited, in favour of pursuing his own Plan Change 19 submission (that being submission #147.) See letter by Dr. Robert Makgill to Chief Executive Sanchia Jacobs, 10 October 2022, and letter to Ann Rodgers, November 2, 2022, for clarification of the Klevstuls being the sole submitters of #163. For a full description of the decoupling of the initial joint submission, see 'Statement of Evidence by Rowan James Klevstul, and on behalf of John Christian Klevstul (163) – Landowners Evidence' 16 May 2023, points 2, 2.1, 2.6. Also see personal letter by Mr Klevstul to Deputy Mayor Gillespie and Councilors' McPherson and Cooney, dated 31st August 2023.

the aforementioned group submission, and that it covers the original, much larger land parcel of **22ha**.⁵ This is of grave concern to us, as we cannot help but feel that it demonstrates the Decision on our submission was made on entirely the wrong basis.

15. Our **7.3ha** block of land is shown as **follows** (yellow and black dashed outline – please also note the active residential zone in pale yellow):



16. My team and I actively engaged with the Council’s appointed consultants, and the Panel, throughout the Plan Change process to try to find an agreed pathway towards a zone change. In fact, it was those interactions that in large part drove the amendments we made to the submission and relief sought. There are numerous examples that demonstrate our willingness to work constructively with Council, but no recognition of this, or even of what we were ultimately seeking, is referenced by the Panel’s Decision.
17. We made significant changes from the outcomes we originally sought in our submission dated 2 September 2022.⁶ In essence, we were sincerely seeking

⁵ “Decision,” [297].

⁶ Plan Change 19 called for public submissions, as was notified by Council in a letter received by Klevstuls, dated July 9th, 2022. We duly submitted, as outlined above, on September 2 2022.

to “fall in line” with the direction the Council and its Reporting Planner seemed to want to take.

18. For example, the original design concept submitted by Urban Planner, Mr James Lunday, of a hamlet style development featuring clusters of dwellings, was explicitly removed from the relief continuing to be sought. This was relayed by my planner, Mr Brett Giddens, to Ms White in good time before she published her final Section 42A report.⁷ At that point, the additional rule provisions previously suggested in the evidence of Mr Giddens to support a bespoke development were also jettisoned, in favour of a zone request governed by the general framework being suggested by Council for LLRZ.
19. This would result in a reduced yield, as although we had illustrated some 36 lots as part of the Hamlet Concept, the rules we proposed could in theory have allowed a greater density (as part of a discretionary process). What was illustrated by Mr Lunday was as **follows**:⁸



20. As a comparison, applying the standard LLRZ at the time would have yielded 32 lots, as shown **below** (the red lot being our current home).⁹ Of note is that the illustration Mr Lunday provides here does not take into account a percentage of land set aside for drainage, greenspaces and/or topographical

⁷ See ‘Supplementary Planning Evidence of Brett James Giddens,’ September 1, 2023, point 15.

⁸ ‘Statement of Evidence of James Dickson Lunday,’ 16 May 2023, page 25.

⁹ ‘Evidence of James Lunday,’ page 20.

constraints, and instead apports the entire **7.3ha** into LLRZ sized lots. Any actual development would have lesser land coverage and a reduced yield.



21. As such, particularly in terms of potential impacts on infrastructure, this more certain (and reduced) yield of the site has direct implications for the conclusions reached by Ms Julie Muir regarding water reticulation, storage capacity, water treatment and water pressure requirements.¹⁰
22. It also appears that these relevant updates to the relief sought were not included in the final considerations of Ms White as she compiled her s42A reports. The offer to seek a straightforward LLRZ zone relief for the site is not referenced, despite it being clearly communicated to Ms White by Mr Giddens as being the foremost of the concessions we were willing to offer.¹¹
23. Also relevant is that the Urban Design Peer Review compiled by Mr. Tim Church, as requested by the Panel in Minute 4, was a direct response to the hamlet concept evidence of Mr Lunday. It does not reflect the refined relief at that point to seek a conventional rezone to LLRZ. Furthermore, the opinion of Mr Church that infill housing was preferable to any extension of the residential zone boundary, as adopted by the Panel Findings in point [312] of the Decision,

¹⁰ Julie Muir, 'Section 42A Report – Part 2 (Zoning Requests): Water and Wastewater servicing matters,' Page 10- 11.

¹¹ See 'Supplementary Planning Evidence of Brett James Giddens,' September 1st, 2023, [15]. Also, see [16 – 19] of the same document describing the submission seeking such changes be included in the s42A.

was also outside of the scope of the Minute 4 request to review Mr. Lunday's hamlet design which, as already explained, was no longer being pursued.¹²

24. Accordingly, the final recommendations of the s42A and the s42A Reply Report, and subsequently those of the Panel to Council (which were adopted by the Council), were based upon an earlier version of our zone request that was out of date and therefore an incorrect basis for consideration. This is despite all our efforts to make it clear that we accepted the standard relief proposed for LLRZ at Bannockburn was appropriate for our site. I feel that the Panel, and indeed the full Council, were not alerted to this by the Reporting Planner, and therefore made their recommendations and decisions on the wrong basis entirely.
25. I firmly believe the site at 2 Schoolhouse Road is a logical inclusion to the updated Bannockburn Residential Zone under Plan Change 19. It is noteworthy, despite the inconsistencies present in the s42A reports described above, that this was also Ms. White's conclusion in her final recommendation to the Panel, where she stated:¹³

If the Hearing Panel consider that in light of the lack of capacity for Bannockburn, it is more appropriate to rezone this land through the PC19 process, then my recommendation is that the Bannockburn/Schoolhouse Road site is zoned LLRZ (without additional provisions applying), with a Future Growth Overlay applied to address the capacity constraints of concern to Ms Muir.

26. I address the lack of capacity for growth at Bannockburn below.

Lack of capacity for growth at Bannockburn

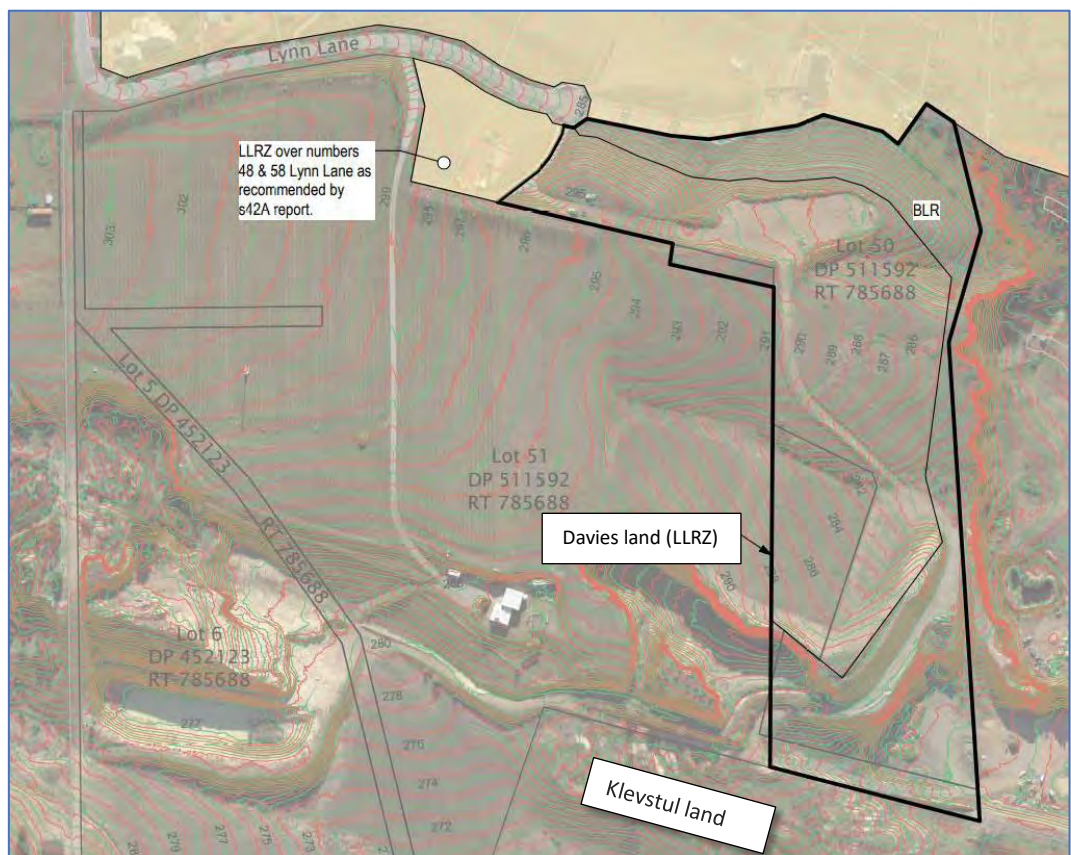
27. The Rationale Report prepared on behalf of the Council identifies a shortfall at Bannockburn of approximately 100 lots under a low-growth projection,

¹² See "Decision," [312].

¹³ Section 42A Report: Plan Change 19 – Residential Provisions Chapter Reply Report, Page 40, [126].

approximately 200 under medium-growth conditions, and approximately 300 under a high-growth scenario.¹⁴

28. It is of concern to us that there is no significant attempt made through PC19 to address this shortfall demand in Bannockburn, even though it was the primary aim of PC19 to provide for residential growth throughout the district. The map **below** shows the land of Mr Davies, who was the only successful applicant for rezoning in Bannockburn, with his land being zoned LLRZ as **follows** (noting that it connects our land to the town residential zone):



29. This rezoning was justified on the basis that it was essentially a zone “swap,” as follows at [294] of the Decision:¹⁵

The Panel agrees with Ms White in her reply that the request amounts to a zone ‘swap’ between similar sized areas and can be considered in isolation

¹⁴ S42A Report on Submissions and Further Submissions Part 2 – Zoning Requests. “Cromwell Yield Assessment” ‘Rationale Report’ by Ms Natalie Hampson. 5.2, Page 13, fig.6.

¹⁵ “Decision,” [254].

of other expansions sought to the urban boundary and recommend that the land is rezoned now, through PC19, rather than deferring this to consideration through a township-specific Spatial Planning exercise looking at other growth options in Bannockburn ...

30. If it was seen as within the scope of PC19 to rezone Mr. Davies land to assist in achieving the purpose of the Plan Change and provide for the outcomes sought, then considering the shortfall it is also prudent to consider rezoning the Klevstul land – especially as it is contiguous with the residential LLRZ zone.¹⁶ However, as Mr. Davies was the only successful applicant for rezoning in Bannockburn, this amounts to only 2 ha. of new land being made available for residential development through PC19. It follows that Council has in fact made no meaningful provision for the housing shortfall in Bannockburn through PC19, despite utilising the PC19 mechanism to effect zone updates in all other towns throughout the district.
31. On this basis, as this was the only rezoning approved, there is still on the Council’s own information a shortfall. This is also likely to be underestimated, on the basis of the data in the independent economic report by Ms Natalie Hampson.¹⁷
32. Ms Hampson’s professional concern over the shortfall, as described in her September 2022 Cromwell Yield Assessment (“**Rationale Report**”) commissioned by the CODC, is supported by the observations of long-term resident and former local real estate agent, Mr Gordon Stewart, in verbal evidence given at the Provisions Hearings. Mr Stewart noted that due to Bannockburn’s unique topography, not every section in the township can feasibly be subdivided, especially to the 1500m² average lot size implemented by the PC19 Decision.¹⁸ This reduces the projected (assumed) number of Lots

¹⁶ See: “Decision,” [296] detailing reasons given for Mr Davies zone being “...effective at achieving the Plan’s objectives.”

¹⁷ s42A Part 2 – Zoning Requests. “Cromwell Yield Assessment” ‘Rationale Report’ by Ms Natalie Hampson.

¹⁸ Notably, the Rationale Report suggests a 28% deficit in housing stock under medium forecasted demand for Bannockburn. “Rationale Report,” pg. 12.

that the Decision’s proposal for infill housing could provide, falling further short of the figures quoted in the Rationale Report that support the s42A and Panel’s recommendations.¹⁹

33. In fact, the shortfall at Bannockburn has actually increased, as the Domain Road Vineyard has been excluded from being afforded a residential zone (LLRZ was initially proposed for the site by Council in the s32A). As noted Ms White: “This shortfall would ... increase if the Domain Road Vineyard is not rezoned.”²⁰
34. The Domain Road site that was originally proposed for rezoning to LLRZ is shown as **follows**:



35. By Council including the Domain Road site for rezoning in the s32A of PC19, it must have considered that there was at least enough infrastructure capacity at that point to meet the demand the zone change would induce.²¹
36. It is understood that the Domain Road Vineyard land is nearly **10 ha** in area. Comparatively, the less than **7ha** of developable land of the Klevstul site would

¹⁹ See “Decision,” [312].

²⁰ s42A Report, paragraph 83.

²¹ “Decision,” [150]. The zoning of this site is discussed by Ms White in her Stage 2 s42A report, where she confirms the site is able to be serviced by Council infrastructure, and would assist in providing supply in an area where there is high demand.

obviously have a lesser LLRZ yield, thus putting less strain on infrastructure capacity than the already included Domain Road site would have done if it had been rezoned LLRZ.

37. The above is of direct relevance to the Klevstul submission, in regards to the conclusions of Ms Muir in her response to Minute 4. Ms Muir posits the potential of additional demand is the biggest hurdle to infrastructure in Bannockburn, not how an individual development connection to the network could be provided.²²
38. If this is so, considering the Domain Road Vineyard submission was rejected on grounds of protecting “Highly Productive Land” and residents’ concern over loss of the “amenity and character the community derive from the rural use of the site,” but *not infrastructure capacity*, then we submit [310] of the Decision that states our site is unable to be serviced should be reconsidered.^{23 24}
39. More on this in the ‘Specific evidence that we put forward in respect of infrastructure’ section that follows. Firstly though, I would like to address the unfairness of deferring zone decisions in Bannockburn under PC19 in favour of further Council-led initiatives.

Error in relying on a further town-specific Bannockburn spatial plan or other such consultation process to be completed before a zone change

40. The recommendation of the Panel at [311] of the Decision, that Council must further consult the local community before earmarking any further land for the township’s growth, effectively and erroneously dismisses the fact that this

²² “Decision,” [118] and [119].

²³ ‘The Panel accepts the evidence of Ms Muir that the site is unable to be serviced at this time.’ “Decision,” [310].

²⁴ The Klevstul land offers a discrete and low impact site for residential development that does not breach the existing Building Line Restriction (BLR), has poor unproductive soil and has direct connectivity to the residential zone and the main Bannockburn road.

consultation was readily achieved through the public notification of Plan Change 19.

41. Indeed, this was the primary focus of the public submissions process. The Council having indicated (among other things) that PC19:

..seeks to rezone new land for residential use, identify some areas for future growth, align existing residential zoning with the proposed new zones, and includes new provisions for managing land use and subdivisions within the residential zones.

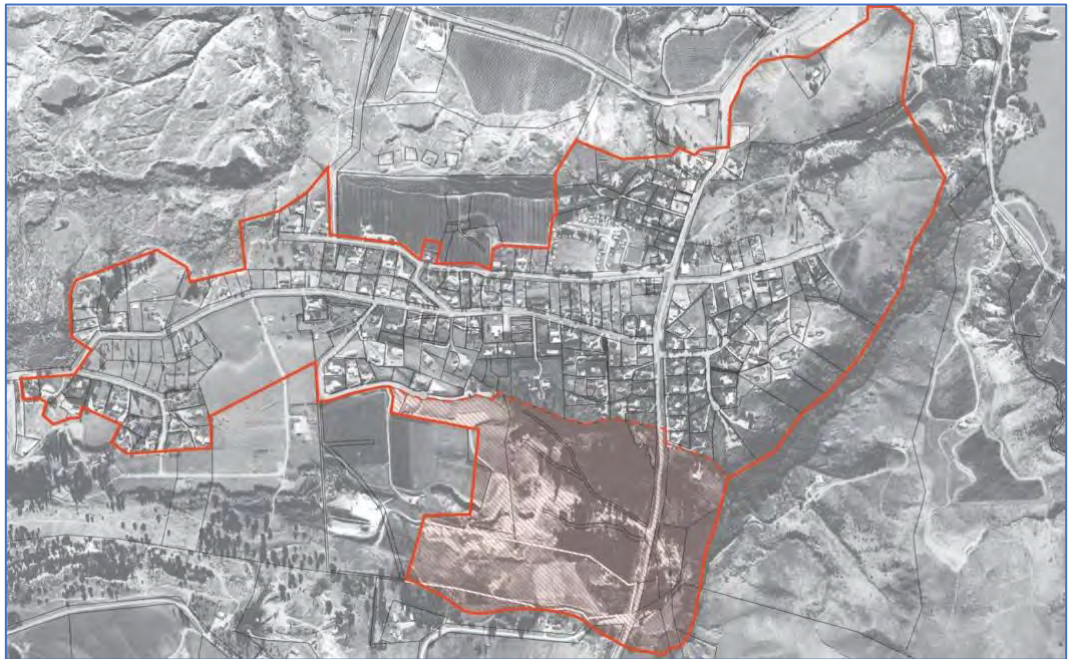
42. There can be no doubt that our submission clearly identified the outcomes sought and provided notice to all potentially affected, or interested, persons to support or oppose through a further submission, if they wanted to. The submission was in scope, gave notice to the world, and therefore should not have to be deferred for some further process.
43. There was no indication given by Council that a different process, such as a separate town-specific Spatial Plan, was being considered for Bannockburn.
44. Furthermore, it is relevant that the PC19 framework is based on the existent Vincent and Cromwell Spatial Plans that were prepared in direct consultation with the Central Otago community.²⁵ The contents of those Spatial Plans, alongside the PC19 public consultation process, were sufficient for the Council to utilise PC19 to implement and update changes to every other residential zone in Central Otago. It seems unjust to defer submissions solely from Bannockburn.
45. We engaged with the PC 19 process in good faith and at significant financial and personal costs, and had a legitimate expectation that a final decision be made, not deferred in favour of further council-led processes at some unspecified time in the future.

²⁵ s42A Report, pg. 2, paragraph 5.

46. It could be years before a spatial planning process for Bannockburn commences. And several more years again before any subsequent Plan Change is then completed. Considering the expense and effort we made to genuinely offer up our land for inclusion to the Bannockburn residential zone, we feel we have reasonable cause to seek more certainty regarding the best use of our land than the Decision provides.

A coherent delineation of Bannockburn Township’s southern edge extended to Schoolhouse Road for sensible future growth

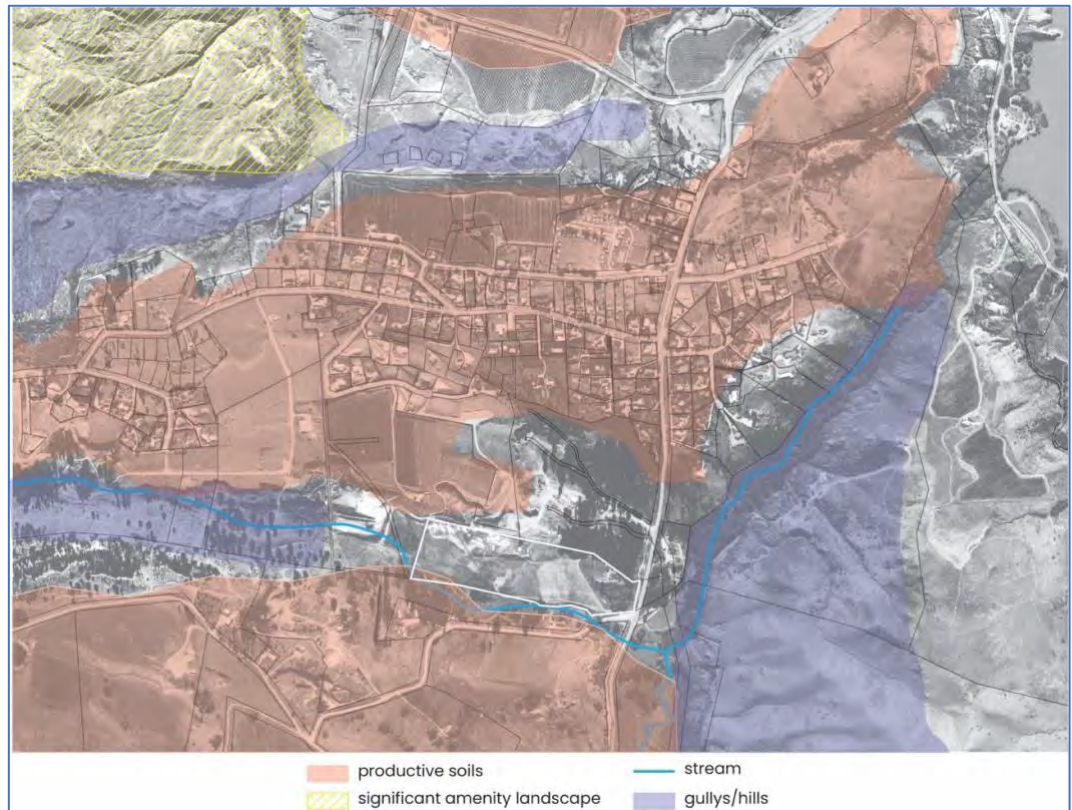
47. As already discussed, there is a significant shortfall in zoned land at Bannockburn. Constraints mapping illustrates that the only logical extension of the township is to the south, including our land, **as follows:**²⁶



48. The **above** is based, for example, on the constraints of productive soils, significant amenity landscapes, and physical features such as gully and hills, and streams, **as follows:**²⁷

²⁶ Natural Town Growth Area. See: “Evidence of James Lunday,” pg.15, fig.9.

²⁷ Growth Boundary Constraints, “Evidence of James Lunday,” pg.14, fig.7



49. In addition, as detailed in my personal evidence to the Hearings Panel, Schoolhouse Road already operates as the unofficial boundary to the township and is used as such by the community.²⁸ For example, the Otago Outdoor Education Trust's School Camp, rubbish and recycling collections, school bus route, and the well-used, Council owned loop walking and cycling track all converge at the lower end of Schoolhouse Road, and are directly connected to the Klevstul land.
50. A southern progression of the existing residential zone was posited favourably by numerous submitters at the Further Submissions stage of the Plan Change process. In contrast, there was strong community opposition to any expansion of the town residential zone north onto Templars Hill or eastwards towards the Bannockburn Inlet that breach the Building Line Restrictions; or westwards

²⁸ 'Statement of Evidence by Rowan James Klevstul – Landowners Evidence.' 2.5, 3.0-3.6.

to encroach upon sensitive areas of historical significance, breach ridgelines, impact views and light sensitive landscapes, and so forth.²⁹

51. The above was anticipated by Ms. White in her s42A Report on Zoning Requests, where she suggests “other land” in Bannockburn being rezoned could offset shortfall in supply.³⁰ Ms White further states that in fact “from an urban form perspective, I generally consider the sites to the south to be a logical area for an expansion to the boundary of the township.”³¹
52. Accordingly, the outcome of any Structure or Spatial Plan process for Bannockburn will effectively be inevitable in respect of our site. It makes no sense to wait when there is such a shortfall in capacity for additional zoned land at present in Bannockburn, particularly as our land has been offered in good faith and through such direct and cooperative engagement with the PC19 process, and sits well within scope of the Plan Change objectives.
53. As we understand it, one of the few impediments to a rezone according to the Panel Findings, appears to be questions surrounding infrastructure. The following expert evidence was submitted at the Zone Hearing to mitigate any such concerns, but has not been recognised in the Decision.

Specific evidence that we put forward in respect of infrastructure

54. The evidence of local Civil Engineer, Mr Mark Cruden, provided at the Zoning Hearing in support of our submission identified that servicing issues could be readily addressed. For example, he suggested that an upgrade of the existing water main from its current 50mm to a 100mm or 150mm diameter main to be extended from the existing main located to the north of the site would be sufficient to mitigate any potable water capacity and firefighting supply

²⁹ “Five submitters also note that the proposed zoning in Bannockburn does not allow for further development to the south of the Township, stating that housing could be placed into the land in this area in such a way that is inconspicuous” s42A Report – Report on Submissions and Further Submissions Part 2 (Zoning Requests), Page 33, [104].

³⁰ s42A Report –Part 2 (Zoning Requests), Page 25 & 26, [83].

³¹ s42A Report – Part 2 (Zoning Requests), Page 36, [111].

issues.³² Mr Cruden also outlined the feasibility of onsite wastewater management.

55. It is also notable that Mr Cruden based his calculations on the initial hamlet design concept and its' potential maximum yield, not the lesser yield of a standard LLRZ. Mr Cruden was however confident network capacity could supply the then proposed 35 dwellings, including the potential demand of secondary dwellings.³³ Fewer dwellings are likely with the relief now sought.
56. It appears the Decision also dismisses the possibility of development contributions being made to assist with funding any infrastructure improvements deemed necessary, as proposed by Mr Cruden in his verbal evidence at the Zone Hearing, and by Mr Giddens in his Zone Hearing evidence, and his further Supplementary evidence.³⁴
57. Mr Giddens also talked the Panel through how the current District Plan provides for a subdivision process where your own infrastructure can be put in place which is not dependent on Council. In this regard, I note that:

(a) 16.3.2 Objective - Services and Infrastructure provides:

To ensure that subdivisions provide all necessary services and infrastructure without adversely affecting the public interest and the ongoing viability of those services and infrastructure.

(b) 16.4.3 Policy - Adequate Infrastructure provides:

To require that the land to be subdivided is supplied with services and infrastructure that are adequate for the intended use of the land to be subdivided without the public interest being adversely affected.

³² 'Statement of Evidence of Mark Cruden,' 16 May 2023, [8] 'Water Supply'.

³³ 'Evidence of Mark Cruden,' [6.1].

³⁴ See 'Statement of Evidence of Brett Giddens', 16 May 2023; and 'Supplementary Planning Evidence of Brett James Giddens,' 31 August 2023, point 30.

(c) Standard 16.7.3 Services, Infrastructure and Roading Servicing the Subdivision requires:

All services, infrastructure and roading that service the land within a subdivision shall be of a standard adequate to meet the intended use of the subdivision.

58. So, as I understand it, a subdivision of zoned land cannot proceed anyway without providing the appropriate infrastructure. This seems to have been ignored by the Reporting Officers, Panel and Decision.
59. Mr Giddens also proposed a staged approach to release a percentage of approved Lots and overlay areas for further later development. This would mitigate immediate pressure on the infrastructure of concern to Ms Muir.
60. The Council did not, but should have, considered all of these options to allow rezoning of our site, on some basis, rather than not at all, if the only real (or at least reasonably perceived) impediment is in fact infrastructure.
61. I reiterate that the Domain Road site is no longer being rezoned LLRZ and therefore extra capacity available for that development can logically be assumed to now be available for development elsewhere in Bannockburn.³⁵
62. Ms White suggests that further housing shortfall in Bannockburn could be offset by rezoning additional land.³⁶ We see this as a sensible recommendation, and suggest that the township should accordingly be viewed by Council as a separate, desirable location of high demand within an increasingly popular region.

³⁵ See "Decision," [150]. "The zoning of this site is discussed by Ms White in her Stage 2 s42A report, where she confirms her view that the location of the site would provide a logical expansion of the 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.

³⁶ Section 42A Report, paragraph 83.

A failure to find that the CODC is a Tier 3 authority, and errors in its approach to the National Policy Statement on Urban Development 2020 (“NPS-UD”)

63. The Panel ambiguously stated:

The Panel has decided that while it is able to make a decision regarding whether or not the Central Otago District Council is a Tier 3 authority, they would prefer to consider the matters raised in terms of providing for future residential growth across the district within the context of the submissions received and the actions required of a Tier 3 authority.

64. This suggests that the Panel is refusing to decide if CODC is a Tier 3 authority, but is also approaching matters as if it is a Tier 3 authority. This is confusing, and diminishes the approach that is taken to giving effect to the NPS-UD requirements.

65. Clause 3.2 of the NPS-UD implements the provisions of NPS-UD Policy 2, and provides as follows:

3.2 Sufficient development capacity for housing

(1) Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet expected demand for housing:

a. In existing and new urban areas; and

b. For both standalone dwellings and attached dwellings; and

c. In the short term, medium term, and long term.

66. The Decision states that, “The NPS-UD requires that sufficient capacity is provided to meet demand and the Panel is of the view that it is appropriate for the Council to determine where it is best to provide capacity”. In short, it

has interpreted Clause 3.2 as providing “discretion to the Council to determine where best to provide capacity”.³⁷

67. Consistent with this approach, the Panel concluded that :

“we do not agree that the NPS-UD requires Council... to meet a shortfall in demand in a particular area in order to give effect to the NPS-UD, provided that sufficient capacity is provided across the urban environment.”³⁸

68. Within the specific context of rezoning requests in Bannockburn township, the Panel indicates that:

“[it] is mindful of consideration whether the identified shortfall in capacity specifically in Bannockburn ‘must’ be met by rezoning land within Bannockburn in order to give effect to the NPS-UD, or whether the NPS-UD requirements are met through a focus on consolidating growth in Cromwell.”³⁹

69. In that context, the Panel reiterated its finding that:

“[it] does not agree that the NPS-UD requires that variety and supply must be met at each township, when the township itself is part of a wider urban environment and the direction in the NPS-UD relates to the ‘urban-environment’ not every component part of it.”⁴⁰

70. If this approach is correct, then it weighs in favour of considering all the urban environments together, which would then mean that CODC would be a Tier 3 local authority.

71. The Panel accepted the findings of Ms White’s s42A report that the “large surplus in Cromwell township...is ‘expected to cover most of the deficit seen in

³⁷ “Decision,” [253].

³⁸ “Decision,” [73].

³⁹ “Decision,” [251].

⁴⁰ “Decision,” [252].

Bannockburn, with large housing supply driving a shift to greater growth rates within the Cromwell township’.”⁴¹

72. Clause 3.2 does not specify the level of granularity required to determine where to provide capacity, other than the general claim that it must be within the local authority’s jurisdiction, in other words, “in its region or district”. Therefore, it is logical to conclude that Council has a discretion in that regard.
73. However, that discretion is not unfettered, as Council is required to provide sufficient development capacity to meet “**expected demand** for housing” [emphasis added]. It is submitted that “expected demand” means the demand for housing identified by Council in its own calculations and projections.
74. The relevant calculations and projections in this case are summarized in the Rationale Report that (presumably under instruction from Council) undertook the yield assessment using a township level of granularity for its analysis. The Report found that “in both Cromwell and Pisa Moorings the forecasted supply outpaces the demand, while the opposite is true in Bannockburn”.⁴²
75. Therefore, Council exercised its discretion by selecting a township level of granularity to assess demand. It would seem logical that Council would consequently be bound by the same level of granularity when considering where to provide sufficient supply. In other words, Council must provide for a projected shortfall of housing in Bannockburn within that same township, not at Ward level as the Decision suggests.
76. This above is a common sense approach, as housing is not a fungible commodity, in the sense that a house in Bannockburn is not interchangeable with a house in Cromwell. The two markets attract very different kinds of buyers, and this is evident in the way that real estate in the respective areas is marketed. Location is a very prominent feature of such advertising, and it

⁴¹ Liz White – s42 Report paragraph 108, quoting the Cromwell Yield Assessment

⁴² s42A – Report on submissions and further submissions (Part 2) ‘Rationale Report,’ page 4.

would be extremely unusual to see a house advertised as simply located within the “Cromwell Ward.”

77. Demand for housing is location specific, and we consider that this is precisely why Council commissioned a report that is township specific. If locational demand was largely irrelevant, then it would have made more sense for Council to commission a report that focused on calculating demand at a Ward level.
78. We also note that the demand criterion was adopted by Council itself when making the decision whether to approve Mr Davies’ application (#147) to rezone highly productive land. One of the grounds on which Council approved Mr Davies’ application was Clause 3.6(4)(a) of the National Policy Statement on Highly Productive Land (“**NPS-HPL**”) which utilizes almost exactly the same language as Clause 3.2(1) of NPS-UD – that the zoning was required “to provide sufficient development capacity to meet expected demand.”⁴³
79. Mr Davies’ rezoning signals that Council want to address the supply issue in terms of expected demand. Rezoning the adjoining Klevstul land meets this criteria explicitly and helps to fulfil the objectives of PC19.
80. The shortfall of housing question identifies Bannockburn as an area of “high demand.”⁴⁴ In utilising what the Panel Findings suggests is their preferred option of infill housing (see [312] of Decision), in terms of infrastructure capacity (or lack thereof) the following assumptions appear to be made.⁴⁵ To meet the Council projected targets for housing demand without any new land being rezoned in Bannockburn through PC19 assumes that:

- (a) Everybody within the existing zone will want to subdivide to the minimum Lot size, and that will sufficiently provide the 500 house

⁴³ “Decision” [286].

⁴⁴ See Liz White, s42A report, Appendix 2: Page 4, 12, 13.

⁴⁵ As stated in [312]., regarding the favouring of Infill Housing in Bannockburn over any new “greenfield” developments.

projected supply needed.⁴⁶ As noted previously, due to the unique topography and historical character of Bannockburn, not all sites can support such subdivision. Even if this was not so, the Rationale Report nevertheless identifies there would still be a minimum 100 house projected shortfall, even under low growth assumption models.⁴⁷

(b) It also assumes that these properties will all come online roughly at the same time and massively increase the stress on existing infrastructure capacity, therefore no other alternative sites should be considered for rezoning in the meantime. If this is so, where is the planning of upgraded infrastructure accounting for the increase in demand from infill housing? If indeed the Council has planned for such growth, then our zone request becomes even more feasible under Council's own upgrades, thus negating [310] of the Decision. The planned infrastructure upgrade of the main pipeline to Bannockburn scheduled for 2024-26 seems an excellent time to consider such future proofing of the network.

81. In anticipation of Council arguing that it could not approve any of the alternative sites for rezoning in Bannockburn (apart the Davies zone "swap" land) because they were neither "plan-enabled"⁴⁸ nor "infrastructure-ready,"⁴⁹ it follows as a matter of logic there is insufficient development capacity in the township, and the provisions of Clause 3.7 NPS-UD are triggered.

82. Clause 3.7 provides as follows:

3.7 When there is insufficient development capacity

⁴⁶ Currently the estimated available feasible capacity for Bannockburn is 480 Lots (with a further 27 lots available under the unspecified "Outside" category), Rationale Report, s42A, Table 5, page 10.

⁴⁷ "Rationale Report," Page 13, fig.6.

⁴⁸ Clause 3.2(2)(a) NPS-UD.

⁴⁹ Clause 3.2.(2)(b) NPS-UD.

- (1) *If a local authority determines that there is insufficient development capacity (as described in clauses 3.2 and 3.3) over the short term, medium term or long term, it must:*
- a. *Immediately notify the Minister for the Environment; and*
 - b. *If the insufficiency is wholly or partly a result of RMA planning documents, change those documents to increase development capacity for housing or business land (as applicable) as soon as practicable, and update any other relevant plan or strategy (including any FDS, as required by subpart 4); and*
 - c. *Consider other options for:*
 - i. *Increasing development capacity; and*
 - ii. *Otherwise enabling development.*

83. Clause 3.7 would at the very least require that PC19 be amended to rectify the insufficiency of housing supply within Bannockburn, and that active consideration be given to increase development capacity. Were infrastructure capacity still seen to be a constraint to possible rezoning of “alternative” sites such as ours, then Clause 3.7(1)(c)(ii) requires Council to otherwise enable development by actively considering the options canvassed in the expert evidence submitted on behalf of the Klevstuls. Our submission made detailed, professional testimony for the efficacy development contributions, site-specific independent servicing, and the feasibility of extending the existing reticulated network have to mitigate infrastructure issues.

84. As a last resort, the Future Growth Overlay (“**FGO**”) mechanism provides for a “live zoning,” but with a requirement for non-complying status unless and until specified infrastructure upgrades are undertaken. If infrastructure is the focus of the FGO approach, as appears to be the Decision’s approach to other towns

in the district, then logic would dictate that there is no reason to not have restricted discretionary consent status focused on infrastructure applying instead of non-complying status.⁵⁰

85. An FGO in any event signal to a developer that it has to work with infrastructure providers and/or the Council to find a way to deliver the relevant infrastructure if their aspirations for development are to be met. This is a significant incentive to a developer to find a solution. It would almost inevitably deliver (“plan for”) the additional needed growth in Bannockburn.⁵¹
86. To this end, as there was strong support for a southern extension to the town in the PC19 submissions process; comprehensive evidence supporting the feasibility of the zone overlay across the site from experienced professionals; and the recommendation of the principal Reporting Planner, who was unequivocal regarding the site-specific suitability of a zone change, we urge the Council to see the sense in zoning the site LLRZ to give the Klevstuls, and indeed the wider community, certainty by securing the most appropriate option for the townships urban growth.⁵²

General reasons in support of this appeal

87. The general reasons for this appeal are that the Decision, in rejecting our request for rezoning to LLRZ:
- (a) fails to promote sustainable management of resources, including the enabling of people and communities to provide for their social and economic well-being, and will not achieve the section 5 purpose of the Act;

⁵⁰ See: [127], [131 – 134] of “Decision” that acknowledges the utility of FGOs in Clyde and Manuherikia; and the amendment to ‘Rule Sub-R8’ regarding Omakau, as identified in “Re-notification of Decision,” 27 June 2024.

⁵¹ ‘The Panel agrees with Ms White that it is broadly appropriate to provide for additional growth in Bannockburn.’ “Decision,” [254].

⁵² “...my recommendation is that the Bannockburn/Schoolhouse Road site is zoned LLRZ (without additional provisions applying), with a Future Growth Overlay applied to address the capacity constraints of concern to Ms Muir.” Liz White, s42A Reply Report, pg.40, [126].

- (b) fails to promote the efficient use and development of the land, a matter to have particular regard to under section 7(b) of the Act;
 - (c) fails to give effect to the NPS-UD;
 - (d) fails to achieve or implement the relevant district-wide objectives and policies of the District Plan that supported that zoning;
 - (e) fails to achieve the functions of the Council under section 31 of integrated management of the effects of the use and development of land and physical resources;
 - (f) fails to meet the requirements of section 32;
 - (g) was procedurally unfair and inefficient.
88. In contrast, granting the appeal to rezone our land LLRZ will achieve beneficial outcomes directly pertaining to the aspirations and objectives of PC19, and otherwise address the issues identified in the paragraph immediately above and within the wider context of this Notice of Appeal by:
- (a) The straightforward addition of **7.3ha** of undeveloped bare land contiguous to the LLRZ residential zone to bolster the total of land rezoned in Bannockburn under PC19, which currently stands at **2ha**.
 - (b) The relief being sought is appropriate to the landscape, and would incur little adverse effect on the visual amenity of Bannockburn township itself. This discrete yet proximal location can help Council meet obligations to provide for housing demand whilst protecting the character, heritage and landscape areas of Bannockburn that are so valued by its' residents.
 - (c) The site is already connected to the Council's main infrastructure.
 - (d) Making best use of an unproductive, southward rolling site that is the only non-HPL rated land available in such close proximity to Bannockburn offered for residential rezoning through PC19.

- (e) Is specifically the most suitable site for the town's expansion in the opinion of the PC19 s42A report writer, Ms White.
- (f) Acknowledge community concern over the sensitivity of development locations by showing to be in support of the town growing to the south – but not to the east, west or north – as was objected to PC19 in the Further Submissions phase.
- (g) Local landscape architect, Mr Benjamin Espie, who's evidence supported the only approved zone change in Bannockburn by PC19 (the Davies site "zone swap") also assessed and gave evidence in support of rezoning the neighbouring Klevstul site, and considered the broad-scale landscape impacts of the relief sought on both land areas to be the same.⁵³
- (h) Offers the opportunity to enhance the community's amenity network by using best practice design to integrate existing public cycling, walking, greenspace and outdoor education facilities within the town belt.
- (i) The site has frontage to the main Bannockburn Road, with easy access at the corner of Schoolhouse Road/Bannockburn Road that can safely manage the increase in traffic volume development may incur.⁵⁴

89. My hope is that this appeal document has expanded for the benefit of Council the essence of our submission, and clarifies content that may have been overlooked during the significant work flow the Panel had to deal with in compiling their recommendations. I believe we have provided compelling evidence and have a genuinely good reason as to why the Decision to deny a zone change of our property should be reconsidered.

90. Our final request was a simplified, modest, on scope, well-supported and very reasonable request to incorporate the land at 2 Schoolhouse Road in the

⁵³ See "Evidence of Benjamin Espie (Landscape Architect)," 16 May 2023. [5], [54].

⁵⁴ See "Evidence of Andy Carr," 16 May 2023.

residential zone of Bannockburn as part of a complete and comprehensive Plan Change 19 Decision.

91. Accordingly, our final general reason for granting our appeal is “an appeal to reason”: Whilst the content of our submission evolved alongside PC19’s due processes, the appropriateness of the site’s location, its relevance to provide for residential growth in the district, and “shovel-ready” status have remained the same. Our land is a bare, undeveloped site with non-HPL soil in very close proximity to Bannockburn – in fact, now contiguous with the existing Residential Zone. It is the logical location for Bannockburn’s future growth. The natural boundaries of Smiths Creek and Schoolhouse Road that delineate our land offer a coherent, futureproof southern boundary to the town, and are already viewed as and utilised by the community as such. We sincerely believe our land does not suit its current classification as rural resource land, and have long anticipated an opportunity such as PC19 to better realise its potential to positively contribute to the real need our town has for more land suited to residential development.

Relief sought

92. We seek the following relief in this appeal:
- (a) ***For jurisdictional purposes only***, all the relief we originally sought in respect of our land, i.e. both LLRZ, or a Rural Hamlet or Cluster style zoning. We do not intend to advance the Rural Hamlet or Cluster style zoning, but understand that Council thinking may change or that there might be room for a bespoke solution, which might need to draw on elements of the Rural Hamlet or Cluster style zoning.
 - (b) ***Our primary relief*** is the rezoning of the Klevstul land at 2 Schoolhouse Road, Bannockburn to LLRZ, without modification of any of the standard provisions applying to the LLRZ.

- (c) ***Our secondary relief*** is the rezoning of our land to LLRZ, again, without modification of any of the standard provisions applying to the LLRZ but with a Future Growth Overlay (FGO) applied to the land. This would only be if absolutely required to address concerns about the availability of infrastructure to serve the modest demand that would result from the LLRZ zoning of our site. It seems contrary to the best interests of the Bannockburn community for the Council to not recognise the site as the obvious location for the township's future growth and, at the very least, identify it as an FGO in the PC19 suite of changes to the Operative District Plan.
- (d) **Any other additional, alternative or consequential relief:** relating to the rezoning of our site, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations to fully resolve the concerns we have raised in this appeal as well as in our original submission.
- (e) **Costs:** We do not want to get into a debate with Council about the costs of the appeal. However, it is a significant burden to us to have to appeal to resolve what should have been a simple and straightforward decision, given the refinement made to the relief sought before the Panel. If that had been recognised and understood, then we think the Panel would have granted that more limited relief and we would not have had to bear the costs of this appeal.

Attachments

93. I attach the following documents to this notice:

(a) A copy of our original submission (**Attachment A**).

(b) The Decision (**Attachment B**).

(c) A list of the names and addresses of persons to be served with a copy of this notice (**Attachment C**).

Signature: ROWAN KLEVSTUL on behalf of ROWAN AND JOHN KLEVSTUL

A handwritten signature in black ink, appearing to read 'Rowan Klevstul', written in a cursive style.

Date: 31 July 2024

Address for service of Appellant:

ROWAN KLEVSTUL
2 Schoolhouse Road,
Bannockburn, Cromwell 9384

Email: rowanklevstul@gmail.com

The Klevstuls
2 Schoolhouse Road,
Bannockburn, Cromwell 9384

31 July 2024

Peter Kelly, CEO
Central Otago District Council
PO Box 122
ALEXANDRA 9340

By email: peter.kelly@codc.govt.nz

Copy to: louise.vandervoort@codc.govt.nz (GM - Planning and Infrastructure)

Copy to: districtplan@codc.govt.nz

Dear Peter,

NOTICE OF APPEAL: PLAN CHANGE 19, REZONING OF 2 SCHOOLHOUSE ROAD, BANNOCKBURN

1. My brother (John Klevstul) and I (Rowan Klevstul) sought the rezoning of our land at 2 Schoolhouse Road through the Plan Change 19 process (“PC19”).
2. Our land of 7.3 ha is unfortunately not suitable for agricultural or horticultural use. Its’ soils are non-productive clay and gravel, it slopes southwards, and is too small. Our land is however in close proximity to Bannockburn, and contiguously “connected” to the township, as our next-door neighbour’s land is now zoned Large Lot Residential (“LLRZ”). Our request to be rezoned was a modest and logical extension of the residential zone in circumstances where the Council itself has identified Bannockburn as in need of provision for additional housing, and the site location is supported by the community as the least impactful to the character and amenity values of the township.
3. I **attach**, by way of service, a copy of our Notice of Appeal. You will see that it is a comprehensive notice, as we wanted to set out our concerns and grounds of appeal in as much detail as possible. This is in the hope that “the Council” – whoever makes decisions on appeals – will be able to understand from the outset why we are so

disappointed with the Decision to not rezone our land, but also why we think this Appeal is capable of a swift resolution.

4. This is because the Decision misunderstands what we had narrowed our relief to and focusses instead on an out-of-date and overly complicated original submission. Through the guidance of experienced professionals, we were encouraged to seek a bespoke Rural Hamlet zoning to enable some 35 “clustered” units. Being complete amateurs ourselves in matters of planning and policy, by the end of the Hearing process my brother and I did however better understand the ramifications such bespoke additions would have on the District Plan. This allowed us to take on board more fully the concerns of the Council’s Officers, and we recognised that a simple LLRZ zone was more appropriate for our land. We clearly communicated in good time to the Reporting Officer that we only sought LLRZ relief for our land, although this was not recognised in the Decision. Given usual site constraints, a standard LLRZ would effectively reduce yield well below what the intensification of the Hamlet design suggested and mitigate the major concern of the Decision.
5. We are hopeful that this resolves what we understood to be the Council’s key concerns with our submission, being:
 - (a) concerns about the Hamlet Village concept, including the density that might have resulted and it’s changing the “character” of the landscape and town;
 - (b) concerns over infrastructure capacity related to density/ yield enabled (noting that the Domain Road Vineyard originally proposed for rezoning by Council was not rezoned in the Decision, and so infrastructure capacity is available given that result); and
 - (c) a lack of connectivity to the existing Bannockburn residential zones (as we are now connected through the rezoning of our neighbour’s land, Mr Davies).
6. The Decision appears to envisage the eventual rezoning of our land to residential (as was supported by the Reporting Officer) but only following a future town-specific Structure or Spatial Plan process. This appears to be the only matter outstanding. We

think this is totally unreasonable, as, firstly, there is scope within the current process to resolve the zoning of our land; secondly, the Council already indicates in the Decision its preference is to extend the residential zone southwards; and last, but certainly not least, there was no mention that Bannockburn would be singled out for a different process before any further rezoning would take place. Right at the outset the Council stated that PC19:

“seeks to rezone new land for residential use, identify some areas for future growth, align existing residential zoning with the proposed new zones, and includes new provisions for managing land use and subdivisions within the residential zones.”

7. We duly submitted, and have invested heavily in the process. It has cost our family considerably, both in terms of our own time and efforts, but most significantly in consultant costs to generate a professional, evidence-based submission. It is simply not fair to effectively invite us to participate upfront, at substantial cost, and then tell us that because we are located at Bannockburn we will have to come back later. In terms of “later” we have no assurance from the Council when it might undertake a Structure or Spatial Plan process for Bannockburn. It could be years, and any subsequent Plan Change to implement the outcome would take further years. I note however that the Decision makes the single isolated choice to rezone our neighbour’s land using the PC19 mechanism, which brings the residential zone of Bannockburn to our literal boundary.
8. To rezone our land LLRZ would help the Plan Change meet its stated objectives in a context where the Council’s own analysis indicates that it has only made provision for 13% of the expected shortfall in housing in Bannockburn, even under low-growth assumptions (and this shortfall has now increased further, as Domain Road Vineyard has not been rezoned as proposed). To extend the residential zone to meet Schoolhouse Road makes good sense – as was supported by the community in the PC19 submissions process, and intimated by the Decision pushing the active zone southwards to meet our boundary. Despite any misunderstandings caused through evolving our submission, we have nevertheless always firmly believed our land does not suit its Rural Resource Area classification, and instead would better serve as a

logical solution to the Council's need to provide more land to meet the demands of the town's future growth.

9. Considering the above, I would very much appreciate an opportunity to meet with you, and any other senior Council representatives you consider it appropriate to meet with, to discuss this further. I also wish to understand who at Council has responsibility (or delegations) to resolve appeals, including by direct engagement. We would far prefer to sit down, and bring our relevant experts (if necessary), to see if we can resolve our Appeal in advance of the lengthy delays and costs associated with mediations and the Environment Court processes. We believe that, in terms of PC19, there are real benefits to Council reconsidering the Decision in this specific case.
10. Finally, you will see that I have taken a personal approach to the drafting of the Appeal, in part because I have been so closely involved in it; but also, to save further costs. As we understand it, the usual "lawyers' style" would be to keep the Appeal at a high level. My brother and I however wanted to provide as much detail in the Notice of Appeal as possible, in a continuing demonstration of our openness towards having positive and personal interactions with the Council that we have shown throughout this process. That said, we feel it important to note that Richard Fowler King's Counsel has agreed to represent us if we do have to go down a litigation route. We would very much prefer to avoid this and instead resolve matters collaboratively.
11. I would sincerely appreciate you taking the time to read the Notice of Appeal. I have taken diligent care to provide a thorough, honest, and relatable account as to why we appeal the Council to reconsider their decision.
12. Please let me know if you are willing to meet. I will make every effort to make myself available at a time that would suit you best (and that would suit any others that you would bring to that meeting).

Yours faithfully,



Rowan Klevstul (On behalf of Rowan and John Klevstul).

ATTACHMENT C

Rowan and John Klevstul
2 Schoolhouse Road, RD2 Bannockburn
Cromwell 9384.

31 July 2024

PERSONS SERVED with copy of NOTICE OF
APPEAL to PLAN CHANGE 19 (by #163 Rowan
and John Klevstul).

Bannockburn Responsible Development
Incorporated Society
128 Cairnmuir Road, RD2
Cromwell 9384
james@dicey.nz

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Niall and Julie Watson
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19/163



RECEIVED
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287522
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

John Klevstul and Rowan Klevstul, and Rubicon Hall Road Limited

Postal address:

Town Planning Group,
PO Box 2559,
QUEENSTOWN

Phone: 0800 22 44 70

Email: office@townplanning.co.nz

Contact person: Craig Barr

This is a submission on proposed Plan Change 19 (PC 19) to the Central Otago District Plan (the proposal).

I am not a trade competitor for the purposes of [Section 308B](#) of the Resource Management Act 1991

The specific provisions of the proposal that my submission relates to are:

Refer to the attached submission document and supporting information.

This submission is:

Refer to the attached submission document and supporting information.

We seek the following decision from the consent authority:

Refer to the attached submission document and supporting information.

I wish to be heard in support of this submission

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

2 September 2022

Date

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.*

Overview of the submission

John Klevstul and Rowan Klevstul, and Rubicon Hall Road Limited (the “**Submitters**”) request that the land identified in **Attachment A** is rezoned from Rural Resource Area to a Large Lot Residential zoning (or similar), with a density in the order of 1000m². **Table 1** below and **Attachment B** identify the land subject to the submission.

The Submitters land (referred to collectively as the “**Site**”) is located adjacent to the Bannockburn Township and is generally bordered by Lynn Lane, Bannockburn Road and Schoolhouse Road. The Site is approximately 22.219ha in area and currently zoned Rural Resource Area under Plan Change 19 (“**PC 19**”) to the Central Otago District Plan (“**CODP**”). The land immediately adjoining is zoned Large Lot Residential and the PC 19 provisions identify a minimum site size/density of 2000m² for the Large Lot Residential Zone.

Legal Description	Address	Owner	Area
Lot 1 DP 460583	2 Schoolhouse Road	John Christian Klevstul, Rowan James Klevstul	7.3ha
Lot 2 DP 460583	22 Schoolhouse Road	Kieran Douglas Parsons, Nita Jane Smith (Note that these persons are not submitters)	2.22ha
Lot 50 DP 511592	None identified	Doctors Flat Vineyard Limited	3.419ha ¹
Lot 51 DP 511592	69 Hall Road	Doctors Flat Vineyard Limited	9.28ha ²

PC 19 background

The Central Otago District Council (“**CODC**”) indicates that PC 19:

- has been driven by the direction set out in the Vincent and Cromwell Spatial Plans. The spatial plans were prepared to respond to demand for residential land and housing affordability concerns in the District, and to plan for the anticipated growth over the next 30 years.
- proposes to make a suite of changes to the way the District’s residential areas are zoned and managed.
- seeks to rezone new land for residential use, identify some areas for future growth, align existing residential zoning with the proposed new zones, and includes new provisions for managing land use and subdivisions within the residential zones. (Emphasis added)

Relief sought

Large Lot Residential Zone

1. The Submitters seek that:
 - a. The Site is zoned Large Lot Residential or similar under PC 19 to the CODP, with a minimum allotment size of 1000m²; and

A portion of Lot 50 DP 511592 forms part of the Site.
A portion of Lot 51 DP 511592 forms part of the Site.

- b. Any consequential relief and amendments to the CODP to give effect to the intent of this submission.

Rural Hamlet Vision - Sustainable Growth Model Concept

2. The Submitters have commissioned the Rural Hamlet Vision - Sustainable Growth Model Concept (**Rural Hamlet Vision**), prepared by Common Ground Southern and included at **Attachment C**.
3. The Rural Hamlet Vision describes and illustrates (amongst other things):
 - a. An indicative development area plan which identifies an initial and conceptual nuanced land use pattern following the identification of resource issues and constraints on the Site.³
 - b. Areas suggested for retention in productive viticulture in the short to medium term, heritage overlays, key roading and walking/cycling connections, a small commercial area and areas for varying densities of housing.
 - c. A form of urban development that PC 19 should be enabling across Cromwell, Bannockburn, Lowburn and Pisa Moorings.
4. Without limiting the relief under para. [1] the Submitters seek amendments to the CODP and notified PC 19 objectives, policies, rules, maps, and other provisions that:
 - a. Provide for large Lot Residential Precinct 6 (or similar) with an average minimum allotment size for residential activity/residential of 1000m²;
 - b. Provide for the urban design principles described and illustrated in the Rural Hamlet Vision;
 - c. Enable lot sizes below 1000m² where the principles in the Rural Hamlet Vision are given effect; and
 - d. Amend the CODP maps to rezone the Site from Rural Resource Area to Large Lot Residential Precinct 6 (or similar) as shown in **Attachment A**.
 - e. Insert a development area plan/structure plan into the CODP which will guide future subdivision development at the Site, based on the indicative development plan in **Attachment C**.⁴
 - f. Adding text including any purpose statement text, objectives and other methods such as policies, rules and assessment matters to facilitate the zoning and ensure subdivision and development is undertaken in accordance with a development area plan (based on the indicative development area plan, as refined through the plan change 19 process and evidence). The location specific text may include the following matters to identify the specific resources on the Site:
 - i. Retention of historic character

The indicative Development Plan (page 9) identifies land adjacent to Lynn Lane as 'Existing Proposed Subdivision'. It is noted that this general area is subject to a resource consented approved by the Environment Court (NZEnvC [2017] 183).

⁴ Rural Hamlet Vision, at page 9, 'Bannockburn Discussion Document - Indicative Development Area Plan, 29/08/22, Revision D'.

- ii. Identifying and implementing key roading connections onto Lynn Lane Bannockburn Road and Schoolhouse Road
 - iii. Pedestrian/cycling connections
 - iv. Retention of an appropriate quantum of any highly productive land
 - v. Opportunities for Indigenous vegetation restoration in gullies
 - vi. Collective stormwater management and integration and enhancement with any existing but degraded drainage areas or wetlands on the Site
- g. Any consequential relief and amendments to the CODP.

Supporting information

The submission is supported by the following information (text amendments to the CODP are included below as part of the general submission on the PC 19 notified text):

1. **Attachment A** - Proposed Rezoning Plan;
2. **Attachment B** - Plan of Properties Subject to the Submission; and
3. **Attachment C** - Rural Hamlet Vision - Sustainable Growth Model Concept, prepared by Common Ground Southern.

Reasons for the Submission

The Site, Design Rationale, and Indicative Development Area Plan

The Site is an appropriate area for a relatively contiguous and logical extension of the existing Bannockburn urban settlement. The Site has road frontage to the local road network at Lynn Lane, Bannockburn and Schoolhouse Roads.

The Site is located on the edge of the existing Bannockburn Township. The Site does not contain any identified overlays or features on the CODP Maps, with the exception of the Site being subject to Scheduled Activity #40 (Gravel Pit).

The proposed approach to development by the Submitters is to retain existing productive land uses (viticulture), preserve the area of mining heritage and develop clusters of housing set in a restored indigenous landscape including stream and wetland restoration and Kowhai Forest.

Clustering development within a productive and native forest landscape will provide the ability for Bannockburn to absorb urban growth whilst retaining and enhancing part of the land for horticulture and ecological restoration.

National Policy Statement Urban Development 2020 (NPSUD)

PC 19 and the accompanying Section 32 evaluation should be more contemplative of rezoning additional land for housing.

The CODC's Section 32 evaluation suggests that the NPSUD does not apply to the Central Otago District and the CODP because the District does not qualify as an urban environment.⁵ Notwithstanding, the Section 32 report acknowledges that PC 19 is consistent with the direction in the NPSUD insofar as it future proofs the District to enable urban environment.

It is uncertain that the Alexandra and Cromwell areas have been distinguished spatially in terms of whether they are individual areas which constitute separate urban environments. While the CODC Section 32 report acknowledges that Cromwell alone is likely to reach this threshold over the horizon covered by the spatial plans (i.e., to 2050), it is considered that greater emphasis should be placed on the NPSUD than that suggested in the CODC's Section 32 report.

While the Section 32 report has not erred in its application of the NPSUD at the current time, it is considered that the District is a valid candidate to be treated as though it were a Tier 3 local authority under the NPSUD, particular where the NPSUD definition of urban environment is relatively open in terms of an area qualifying as an urban environment:

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and*
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people*

Collectively, the urban settlements within the Cromwell Ward encompassing the PC 19 residential zoned areas of Cromwell, Bannockburn, Lowburn and Pisa Moorings are more likely to become urban environments within the planning period of PC 19 and before the CODP is next reviewed.

The CODC's published population information identifies that the 2018 Census recorded 21,558 residents in Central Otago with the population increasing by 20.5% between 2013 and 2018. The Cromwell Spatial Plan has been promulgated to address a 30-year timeframe in which the population of Cromwell is expected to double. The Cromwell Spatial Plan⁶ identifies that the population of the Cromwell Ward under a high growth projection scenario will be 9,450 by 2028.

The projected population growth in the Cromwell area, the length of time between plan reviews initiated by the CODC, and the Cromwell and Vincent Spatial Plans, support greater emphasis being placed on the NPSUD than that provided under the Section 32 evaluation report.

The NPSUD is relevant in terms of the positive obligations placed on local authorities to provide for housing and a diversity of housing options.

Provision 1.5(1) of the NPSUD strongly encourages Tier 3 local authorities to do the things that tier 1 and tier 2 local authorities are obliged to do under Parts 2 and 3 of the National Policy Statement, adopting whatever modifications to the National Policy Statement are necessary or helpful to enable them to do so.

The following objectives and policies of the NPSUD are relevant to PC 19 and the rezoning proposal:

Objective 1: *New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

Objective 2: *Planning decisions improve housing affordability by supporting competitive land and development markets.*

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

⁵ CODC Section 32 report at [78].

⁶ Cromwell Spatial Framework Plan, May 29 2019, at [28].

- (a) *have or enable a variety of homes that:*
 - (i) *meet the needs, in terms of type, price, and location, of different households; and*
 - (ii) *enable Māori to express their cultural traditions and norms; and*
- (b) *have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
- (d) *support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (e) *support reductions in greenhouse gas emissions; and*
- (f) *are resilient to the likely current and future effects of climate change.*

This rezoning proposal will help the local authority and the CODP achieve Objectives 1 and 2 of the NPSUD by contributing to a well-functioning urban environment.

Partially Operative Otago Regional Policy Statement 2019 (RPS)

The proposed rezoning is consistent with and would give effect to the RPS.

Section 75(3)(c) of the Act requires that a District Plan must give effect to any Operative Regional Policy Statement. Section 74(2)(a) of the RMA requires that a territorial authority have regard to any Proposed Regional Policy Statement when preparing or changing a District Plan.

The key provisions of the PORPS19 relevant to this evaluation are:

- Objective 1.1 - Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities;
- Policy 1.1.1 – Provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources.
- 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, and allied policies relating to integrated management;
- Objective 3.1 – The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded, and allied policies;
- Objective 3.2 – Otago's significant and highly-valued natural resources are identified and protected, or enhanced where degraded; and allied policies;
- Policy 3.2.6 – Maintain or enhance highly valued natural features, landscapes and seascapes by ...avoiding significant adverse effects on those values which that contribute to the high value of the natural feature, landscape or seascape; avoiding, remedying or mitigating other adverse effects; encouraging enhancement of those values that contribute to the high value of the natural feature, landscape or seascape.

In this case the Site is not identified in the CODP as a high valued natural feature or landscape and the proposal does not engage with Section 7(c) and Policy 3.2.6.

- 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, and related Policy 4.5.1 (repeated in full):

Providing for urban growth and development

Provide for urban growth and development in a strategic and co-ordinated way, including by:

- a) *Ensuring future urban growth areas are in accordance with any future development strategy for that district.*
- b) *Monitoring supply and demand of residential, commercial and industrial zoned land;*
- c) *Ensuring that there is sufficient housing and business land development capacity available in Otago;*
- d) *Setting minimum targets for sufficient, feasible capacity for housing in high growth urban areas in Schedule 6*
- e) *Coordinating the development and the extension of urban areas with infrastructure development programmes, to provide infrastructure in an efficient and effective way.*
- f) *Having particular regard to:*
 - i. *Providing for rural production activities by minimising adverse effects on significant soils and activities which sustain food production;*
 - ii. *Minimising competing demands for natural resources;*
 - iii. *Maintaining high and outstanding natural character in the coastal environment; outstanding natural features, landscapes, and seascapes; and areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
 - iv. *Maintaining important cultural or historic heritage values;*
 - v. *Avoiding land with significant risk from natural hazards;*
- g) *Ensuring efficient use of land;*
- h) *Restricting urban growth and development to areas that avoid reverse sensitivity effects unless those effects can be adequately managed;*

Policy 4.5.1 is an important policy in terms of directing urban development within the Otago Region. It is noted that the Cromwell Spatial Plan is not a future development strategy prepared under the NPSUD. Rezoning proposals therefore do not need to be in accordance with the Cromwell Spatial Plan in order to be consistent with and implement Policy 4.5.1.

Limb (e) requires that the extension of urban areas with infrastructure development is coordinated with programmes, to provide infrastructure in an efficient and effective way. The Site is located adjacent to an existing urban settlement and offers efficiencies in terms of servicing, including any necessary infrastructure upgrades.

- Objective 5.3 – Sufficient land is managed and protected for economic production:

The rezoning will retain the productive viticulture land and utilise land that is not as suitable for viticulture or horticulture for clusters of housing

- Policy 5.3.1 – Rural Activities – Manage activities in rural areas, to support the region’s economy and communities, by ... restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects; providing for other activities that have a functional need to locate in rural areas.

Housing will be able to be managed so that it is not incompatible with existing or future productive activities. The area has a presence of housing and viticulture.

The proposal is consistent with the PORPS19.

The following table provides an evaluation of the following relevant operative district wide provisions.

District Plan Objective or Policy	Evaluation
Section 4: Rural Resource Area	
<p><i>4.3.1 Objective - Needs of the District's People and Communities</i> <i>To recognise that communities need to provide for their social, economic and cultural wellbeing, and for their health and safety at the same time as ensuring environmental quality is maintained and enhanced.</i></p>	<p>The proposal will achieve this objective by way of provision of additional housing opportunities and a logical and sensitive expansion of an existing urban settlement.</p>
<p><i>4.3.7 Objective - Soil Resource</i> <i>To maintain the life-supporting capacity of the District's soil resource to ensure that the needs of present and future generations are met.</i></p>	<p>The rezoning will not result in the loss of existing productive orchard and viticulture activities.</p>
<p><i>4.3.3 Objective - Landscape and Amenity Values</i> <i>To maintain and where practicable enhance rural amenity values created by the open space, landscape, natural character and built environment values of the District's rural environment, and to maintain the open natural character of the hills and ranges.</i></p>	<p>The proposal will not result in the loss of valued rural amenity, nor will it affect the open natural character of the hills and ranges. Related Policy 4.4.2 is also relevant and discussed below.</p>
<p><i>4.4.2 Policy – Landscape and Amenity Values</i> <i>To manage the effects of land use activities and subdivision to ensure that adverse effects on the open space, landscape, natural character and amenity values of the rural environment are avoided, remedied or mitigated through:</i></p> <ul style="list-style-type: none"> <i>(a) The design and location of structures and works, particularly in respect of the open natural character of hills and ranges, skylines, prominent places and natural features,</i> <i>(b) Development which is compatible with the surrounding environment including the amenity values of adjoining properties,</i> <i>(c) The ability to adequately dispose of effluent on site,</i> <i>(d) Controlling the generation of noise in back country areas,</i> <i>(e) The location of tree planting, particularly in respect of landscape values, natural features and ecological values,</i> <i>(f) Controlling the spread of wilding trees.</i> 	<p>The proposal will avoid development on hills and ranges and would not result in inappropriate urban development in an area with valued rural landscape.</p> <p>The Site is not located a significant amenity landscape or ONF/L.</p>

<p>(g) <i>Encouraging the location and design of buildings to maintain the open natural character of hills and ranges without compromising the landscape and amenity values of prominent hillsides and terraces.</i></p>	
<p>Section 6: Urban Areas</p>	
<p>6.3.1 Objective - Needs of People and Communities <i>To promote the sustainable management of the urban areas in order to:</i></p> <p>(a) <i>Enable the people and communities of the district to provide for their social, economic and cultural wellbeing and their health and safety; and</i></p> <p>(b) <i>Meet the present and reasonably foreseeable needs of these people and communities</i></p>	<p>The proposal can assist PC 19 and the CODP further achieve this objective by providing for additional urban land in a sustainable manner.</p>
<p>6.3.2 Objective - Amenity Values</p> <p><i>To manage urban growth and development so as to promote the maintenance and enhancement of the environmental quality and amenity values of the particular environments found within the District's urban areas.</i></p>	<p>The extension is logical and will maintain the existing amenity of Bannockburn.</p>
<p>6.3.3 Objective - Adverse Effects on Natural and Physical Resources</p> <p><i>To avoid, remedy or mitigate the adverse effects of urban areas on the natural and physical resources of the District.</i></p>	<p>The extension will result in the relatively small loss of potential rural productive land. The effects on rural character will be avoided and mitigated so that the benefits of the proposal outweigh the costs.</p>
<p>6.3.4 Objective - Urban Infrastructure</p> <p><i>To promote the sustainable management of the District's urban infrastructure to meet the present and reasonably foreseeable needs of the District's communities.</i></p>	<p>The rezoning area can be serviced and does not require any significant extension of infrastructure due to the Site's location adjacent to an existing urban settlement with reticulated water and wastewater.</p>
<p>6.4.1 Policy - Maintenance of Quality of Life within Urban Areas</p> <p><i>To maintain and, where practicable, enhance the quality of life for people and communities within the District's urban areas through:</i></p> <p>(a) <i>Identifying and providing for a level of amenity which is acceptable to the community; and</i></p> <p>(b) <i>Avoiding, remedying or mitigating the adverse effects on the community's social, economic and cultural wellbeing and health and safety which may result from the use, development and protection of natural and physical resources, and</i></p>	<p>The proposed rezoning will enable provide good amenity for future inhabitants while maintaining amenity values within the wider Bannockburn area.</p>

<p>(c) <i>Recognising that change is inevitable in the use of land to enable the community to provide for its wellbeing.</i></p>	
<p>6.4.2 Policy – Expansion of Urban Areas</p> <p><i>To enable the expansion of urban areas or urban infrastructure in a manner that avoids, remedies or mitigates adverse effects on:</i></p> <p>(a) <i>Adjoining rural areas.</i> (b) <i>Outstanding landscape values.</i> (c) <i>The natural character of water bodies and their margins.</i> (d) <i>Heritage values.</i> (e) <i>Sites of cultural importance to Kai Tahu ki Otago.</i> (f) <i>The integrity of existing network utilities and infrastructure, including their safe and efficient operation.</i> (g) <i>The life supporting capacity of land resources.</i> (h) <i>The intrinsic values of areas of significant indigenous vegetation and habitats of significant indigenous fauna.</i></p>	<p>The urban expansion will avoid adverse effects on adjoining rural areas and outstanding landscape values and indigenous biodiversity, and other elements.</p>

Sections 74 and 75 of the RMA and the Cromwell Spatial Plan

Despite not being identified in the Cromwell Spatial Plan, the rezoning from Rural Resource Area to residential is appropriate.

Section 75(3) of the RMA requires a District Plan to give effect to:

- (a) *any national policy statement; and*
- (b) *any New Zealand coastal policy statement; and*
- (ba) *a national planning standard; al(c) any regional policy statement*

Section 74(2)(b)(i) of the RMA requires that when preparing or changing a District Plan, a territorial authority shall have regard to management plans and strategies prepared under other Acts.

Regard is able to be had to the Cromwell Spatial Plan, however the PC 19 and the CODP is not required to 'give effect to' the Cromwell Spatial Plan or any other plan endorsed by the CODC in terms of the Local Government Act derived consultation documents.

The objectives and policies of the NPSUD (to the extent relevant to the District), the PORPS19 and the CODP are required to be given effect to by PC 19 and this proposal. The Cromwell Spatial Plan is relevant. It is to be regarded, rather than 'given effect'.

The Cromwell Spatial Plan was completed in 2019, and the growth projections and population information appeared to be for the period 2013-2017 and the 2018 Census data. The Cromwell Spatial Plan identifies some additional growth for Bannockburn at the Domain Road vineyard.

The Spatial Plan identifies consolidation within Cromwell itself, and PC 19 has identified several sites on the edge of Cromwell as appropriate for urban zoning, including a relatively large area of existing Rural Resource Area zoned land adjacent to SH8 as proposed to be rezoned from Rural Resource Area with

established horticulture activities to Medium Density Residential (Freeway Orchard Site), and land at Bannockburn (Domain Road Vineyard) from Rural Resource Area to Large Lot Residential.

Notwithstanding that the Spatial Plan does not identify the Site for residential development/zoning, the Site is an appropriate candidate for rezoning for the following reasons:

- It is adjacent to an established urban settlement.
- Given its proximity, it is influenced by urban development within the urban settlement and displays similar characteristics to the settlement.
- It is adjacent to existing reticulated water and wastewater and can be serviced.
- There is sufficient roading connections to the local road network.
- The land has capacity for urban development and will not affect any significant amenity landscapes or ONF/L.
- The urban extension is a logical and contiguous extension of an established urban area, the proposed zoning is not a spot zone and is not isolated from existing urban areas.

Achieving Part 2 of the RMA 1991

The Site does not contain any resources of national importance (i.e., it is not within an Outstanding Natural Landscape), nor any identified heritage or cultural resources and does not affect the natural character of waterbodies.

The proposed rezoning will promote the sustainable management of natural and physical resources and will achieve Part 2 of the RMA.

Indicative residential density

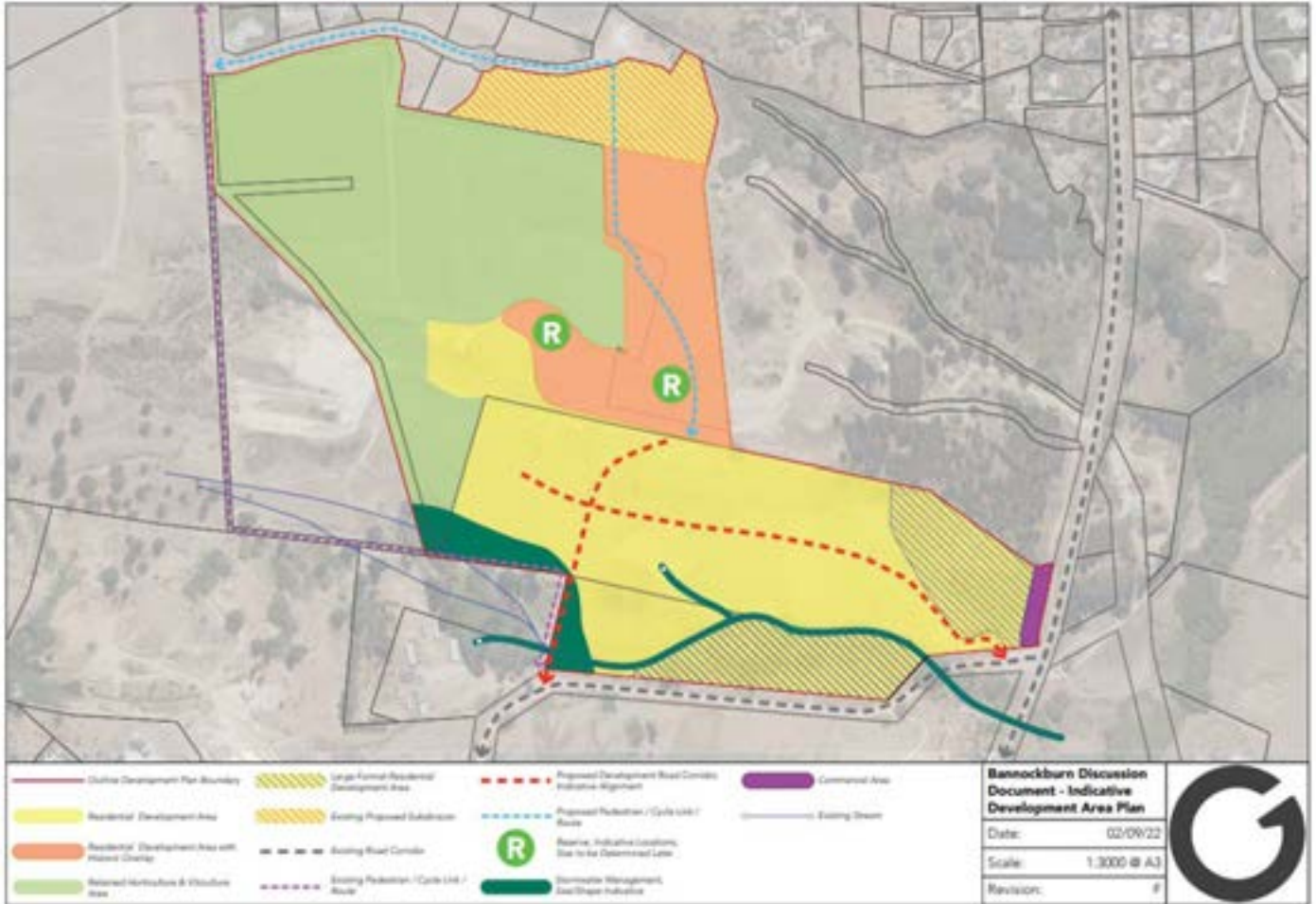
Applying an average allotment size of 1000m² is more appropriate than the 2000m² minimum allotment size identified for Bannockburn by the CODC through PC 19. Reasons for this include the smaller lot size of 1000m²: (a) is a more efficient use of land for housing, while still retaining a large lot suburban character and high amenity values consistent with the established pattern of development at Bannockburn; (b) would enable consolidation of housing to locations within the Site where there is the greatest capacity to absorb development without being bound to a generic style subdivision; and (c) promotes efficiencies in terms of the provision of infrastructure.

Applying an average density enables a subdivision and development pattern which is consistent with the Rural Hamlet Vision (**Attachment C**).

Agglomerating residential subdivision and development through a 1000m² average allotment size will provide efficiencies for water and wastewater servicing, and, has the potential to reduce the area of land required for roading, while still providing opportunities for walking and cycling connections through the Site

Attachment A

Rezoning Plan



Attachment B

Site location illustrated by yellow boundaries, with indicative areas shaded red that may be excluded from urban development.



Attachment C

Rural Hamlet Sustainable Growth Model Concept prepared by Common Ground Southern

Dr ROBERT MAKGILL

BARRISTER — PHD, LLM HONS, LLB

2 September 2022


Ms Sanchia Jacobs
The Chief Executive
Central Otago District Council
PO Box 122
ALEXANDRA 9340

Dear Ms Jacobs,

SUBMISSION ON PROPOSED PLAN CHANGE 19

1. I act for John Klevstul and Rowan Klevstul, and Rubicon Hall Road Limited (**clients**).
2. Please find **enclosed** for filing on behalf of my clients:
 - (a) a submission on Plan Change 19 prepared by Town Planning Group; and
 - (b) supporting urban design information prepared by Common Ground Southern.
3. I look forward to acknowledgment of receipt.

Yours faithfully



Dr Robert Makgill
Barrister

Project no // 2217
Document Title // Bannockburn - Rural Hamlet
Revision // B
Date // 02_09_2022
Client Name // Collective of Landowners

Author // Common Ground Southern

File Name // 220902 Bannockburn - Rural Hamlet

DOCUMENT HISTORY AND STATUS

REVISION	DATE	DESCRIPTION	ISSUED	REVIEWED
A	01/09/2022	Presentation Issue	CC	JL
B	02/09/2022	Ammendments	CC	JL

3	CONTEXT
5	RURAL HAMLET - SUSTAINABLE GROWTH MODEL
7	CLUSTERS
8	INDICATIVE AREA DEVELOPMENT PLAN
9	MOODBOARD

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All drawings are preliminary subject to development of design. Please note, some pictures may have been enhanced/alterd using artificial intelligence, these pictures are used as design precedents to indicate look and feel of the design. Photographs included are design precedents only as indicative look and feel for the design.

contents 



The plans for the settlement of Bannockburn began in 1862, as a result of miners being forced upstream from rising water levels in the Clutha and Kawarau Rivers. Though the area was settled around this period, the population was not stationary. As miners followed gold up the creeks, the settlements tended to follow, and by 1868 the original settlement had been strung out along what is now the Bannockburn-Nevis road. As miners swept over the area, from 1862 to 1871 the face of the landscape underwent drastic changes as the alluvial flat was washed away by sluicing operations to the forboding landscape that exists today. Water during this period was a pivotal resource, not just for mining but to supply the town as well. Evidence of the complex water system that once existed is spread throughout the landscape. Multiple dams, (technically reservoirs) feed a water system that extends from high on the nearby Carrick range down to the abandoned sluicing sites. Tippet's Dam was one of, if not the largest of these reservoirs. The water has since been redirected for horticultural and viticultural use and the sluicings rest dormant on land belonging to the Department of Conservation.

Bannockburn had a population of 477 at the 2018 New Zealand census, an increase of 99 people (26.2%) since the 2013 census, and an increase of 162 people (51.4%) since the 2006 census. Bannockburn has a population with 57 people (11.9%) aged under 15 years, 63 (13.2%) aged 15 to 29, 240 (50.3%) aged 30 to 64, and 117 (24.5%) aged 65 or older. This low percentage of young people most likely an effect of no education providers in the town (closest is in Cromwell). Ethnicities were 94.3% European/Pākehā, 5.0% Māori, 0.6% Pacific peoples, 3.1% Asian, and 1.9% other ethnicities (totals add to more than 100% since people could identify with multiple ethnicities).

Wine in this region, like the majority of Central Otago, focuses primarily on Pinot noir, suited to the dry climate and soils. The climate of Bannockburn epitomizes that of the Central Otago wine region and claims some of the highest temperatures and lowest rainfall in the area. The area is limited by geographical constraints to relatively small outputs, and most of the vineyards boast a boutique high quality wine with typically small volumes of grapes.



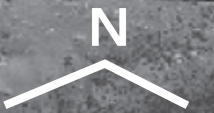
Within 1 km the nominal centre of Town (The Community Hall) you have access to all the amenity of the area surrounding the fragmented village of Bannockburn. Most of the original commercial buildings of the Town are scattered along the Bannockburn Road.

Across the Kawarau River from Cromwell on the road to Nevis Valley, the small historic mining town of Bannockburn offers a fascinating journey into the past.

Bannockburn was a successful mining settlement that managed to avoid becoming a ghost town once the gold was gone. Buildings from the early times remain today, including a beautiful hotel, a post office, Stewart's store and a number of family homes.

Adjacent to the town is the Bannockburn Sluicing Historic Reserve, which is managed by the Department of Conservation. The reserve offers a chance to explore an intriguing landscape created from 1865 to 1910 by fortune seekers in search of gold. Discover evidence of water races, dams, tunnels and shafts, as well as crumbling mud-brick and stone buildings in the old orchards at Stewart Town. From the reserve, a four-hour return walkway heads uphill behind Stewart Town to a farm access track in the gully, up a steep spur and eventually to the conservation area boundary. You can enjoy dramatic rock bluff landscapes and views of the Clutha Valley, Lake Dunstan and Pisa Range.

The walkway passes over Kawarau and Mount Difficulty farming stations, so is closed for lambing from 1 October to 30 November. To the north of the town, the Bannockburn Creek area was once an extensive coal mining area which supplied coal for use on gold dredges working the Kawarau and Clutha Rivers



0 100 200 300 400 [m]





Rural Hamlet: Sustainable Growth Model

Throughout Central Otago rural areas and small towns are experiencing Growth pressures. The development that has occurred in many areas has been ad-hoc large lot (lifestyle) subdivision often on good productive land around these Towns. It is a type of creeping suburbia that compromises the townscape and quality horticultural/ viticultural lands capacity for production is affected.

If large lot subdivision continues it may lead too:

- Loss of horticultural / viticultural activities
- Loss of economic value through the supply chain that supports horticulture;
- Loss of associated value through associated industries that rely on horticulture/ viticulture character;
- Disaggregation of economic horticultural units;
- Reverse sensitivity issues;
- Land Price escalation leading to retirement of land from agricultural uses;
- Loss of Identity as large lot large house becomes the dominant character;
- Large lots generally price local workers and potential working residents out of the market.

We have been commissioned to look at a way of expanding the Town of Bannockburn in a manner that:

- Supports sustainable growth for the Town;
- Leaves productive horticultural land for horticultural uses;
- Provides a variety of houses and price points; and
- Restores the indigenous landscape.

The proposed approach to development by the collective landowners is to set aside horticultural land for horticulture; preserve the area of mining heritage and develop clusters of housing set in a restored indigenous landscape including stream and wetland restoration and Kowhai Forest.

Clustering development within a productive and native forest landscape will provide the ability for Bannockburn to absorb urban growth whilst retaining and enhancing the land for horticulture and enhanced areas of high ecological value.

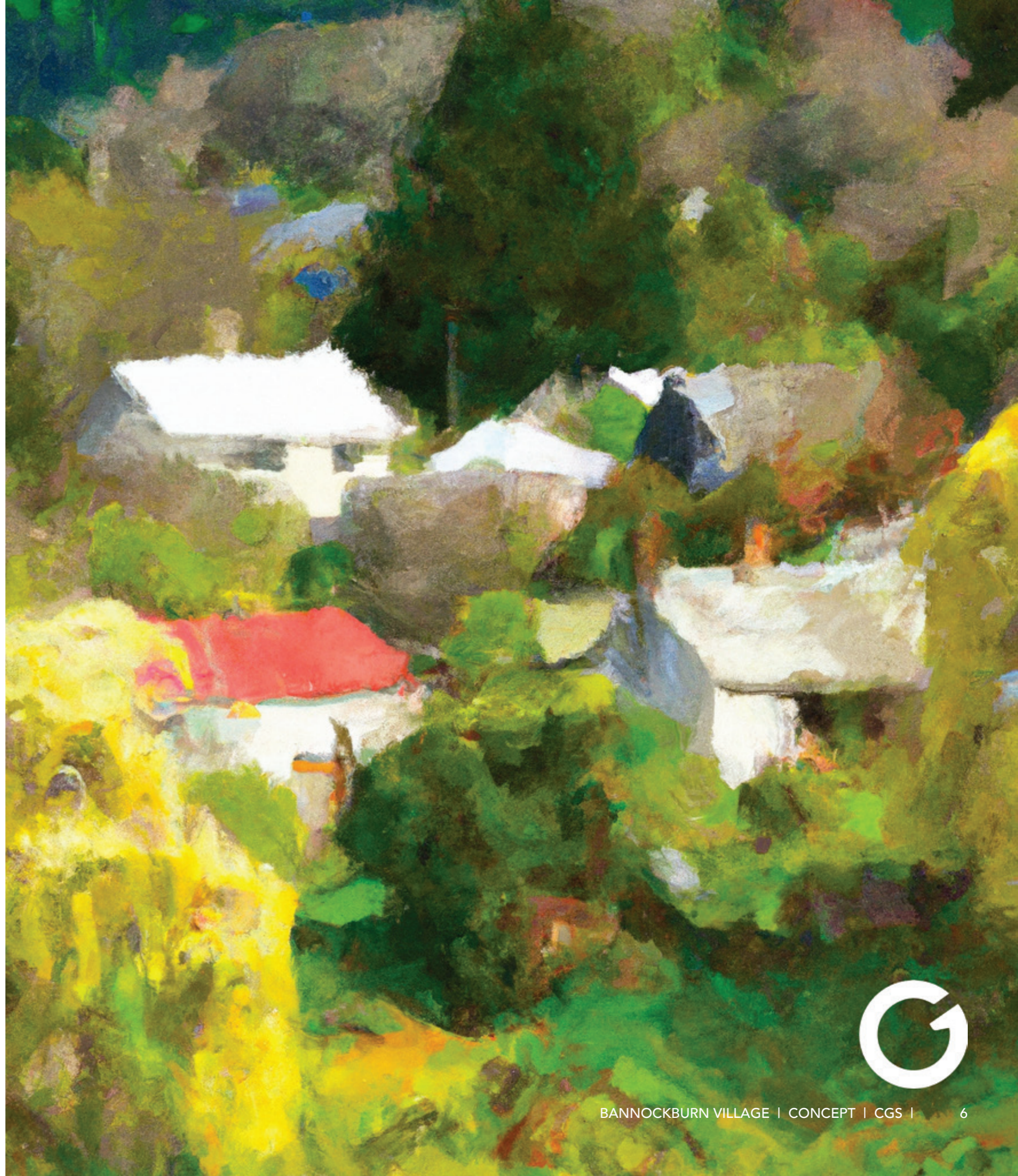


We consider the environmental, built form and heritage of the Village and curtilage of Bannockburn should drive the residential and commercial expansion. It would be a mistake to allow creeping suburbanisation to occur on non-defendable edges of the Village. We suggest following principles laid down by the likes of Ian McHarg, *Design with Nature*. McHarg promoted successfully blended community design with natural boundary conditions (watershed management, geology, forestry, slope properties, productive soils, protection of streams, heritage and ecological etc) values to drive growth studies.

Key elements which the Bannockburn Development Area Plan could be based on:

- Compact, walkable and well-designed settlement defined by landscape features, protection of horticulturally productive land, protection of cultural heritage and ecological restoration .
- Creation of a real, localised and authentic sense of place.
- A place that is attractive to the full range of occupants, visitors and businesses.
- Development that responds to landscape and resources within it, local vernacular and cultural associations.
- Creation of a carefully planned and executed pedestrian and cycle network.
- An attractive environment, green streets, good walkways and pavements connecting facilities, parks, open spaces, quality public realm, quality design and architecture.
- Respect for the environment with low impact design, green technology, green architecture and green streets and infrastructure.
- A settlement for everyone, adopting universal design strategies, local facilities and diversity of housing including affordability
- Protection of the streams, gullies, horticultural land, gold mining heritage, water races and steep slopes with the aim to restore native vegetation or forest.
- More sustainable and intensive, mixed, agricultural practices to be promoted.
- Infrastructure that supports small business, work from home and best practice telecommunication provision.
- A single land management system.
- Development areas that can absorb a variety of densities and house types

We consider that a comprehensive structure planned approach will result in development of the southern extension of Bannockburn being a positive contribution to Bannockburns future character.



COMPARATIVE MODELS OF RURAL GROWTH

If we take an indicative site that has some constraints (say protected forest and a stream) and apply the conventional large lot peri-urban large lot model of development (1500-2000m²) we diminish the ability of the land for other uses and compromise the ecological values.

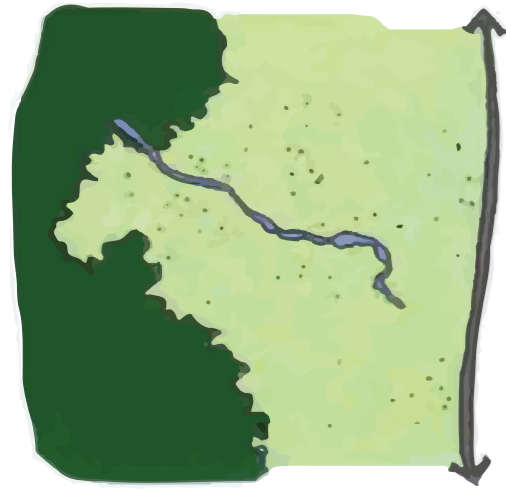


Figure 1. Indicative Site

A better use of land is to enhance and increase ecological areas, preserve land for production and cluster more modest homes together preserving the numbers of houses and creating community. If the cluster is compressed to a smaller area of land and several other higher density typologies introduced then we start to create a hamlet or village set within a natural and productive landscape.

LESS SUSTAINABLE



MORE SUSTAINABLE

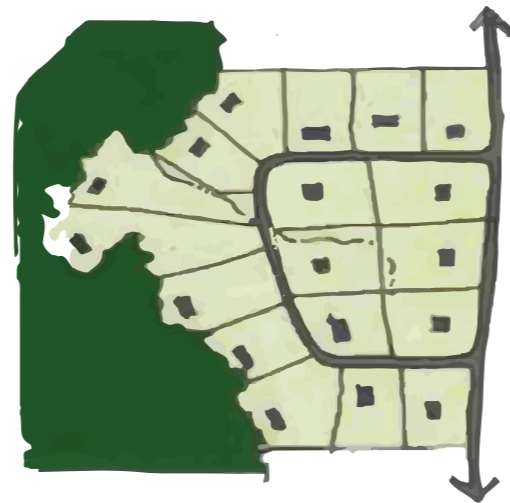


Figure 2. Conventional suburban response



Figure 3. Bush cluster approach

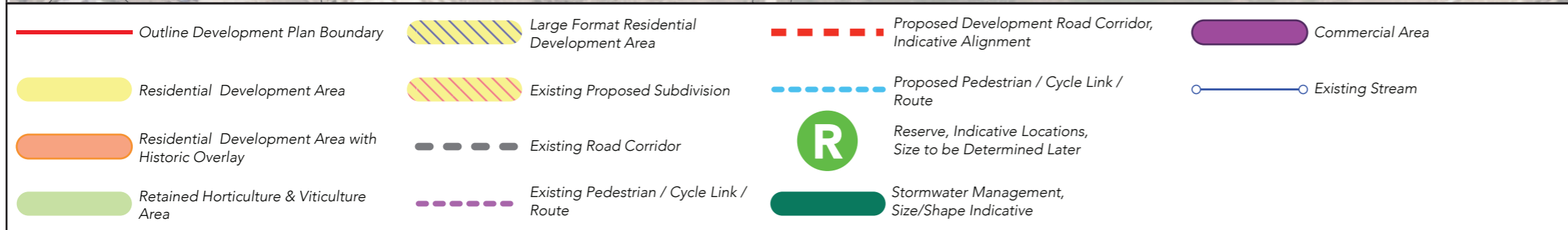
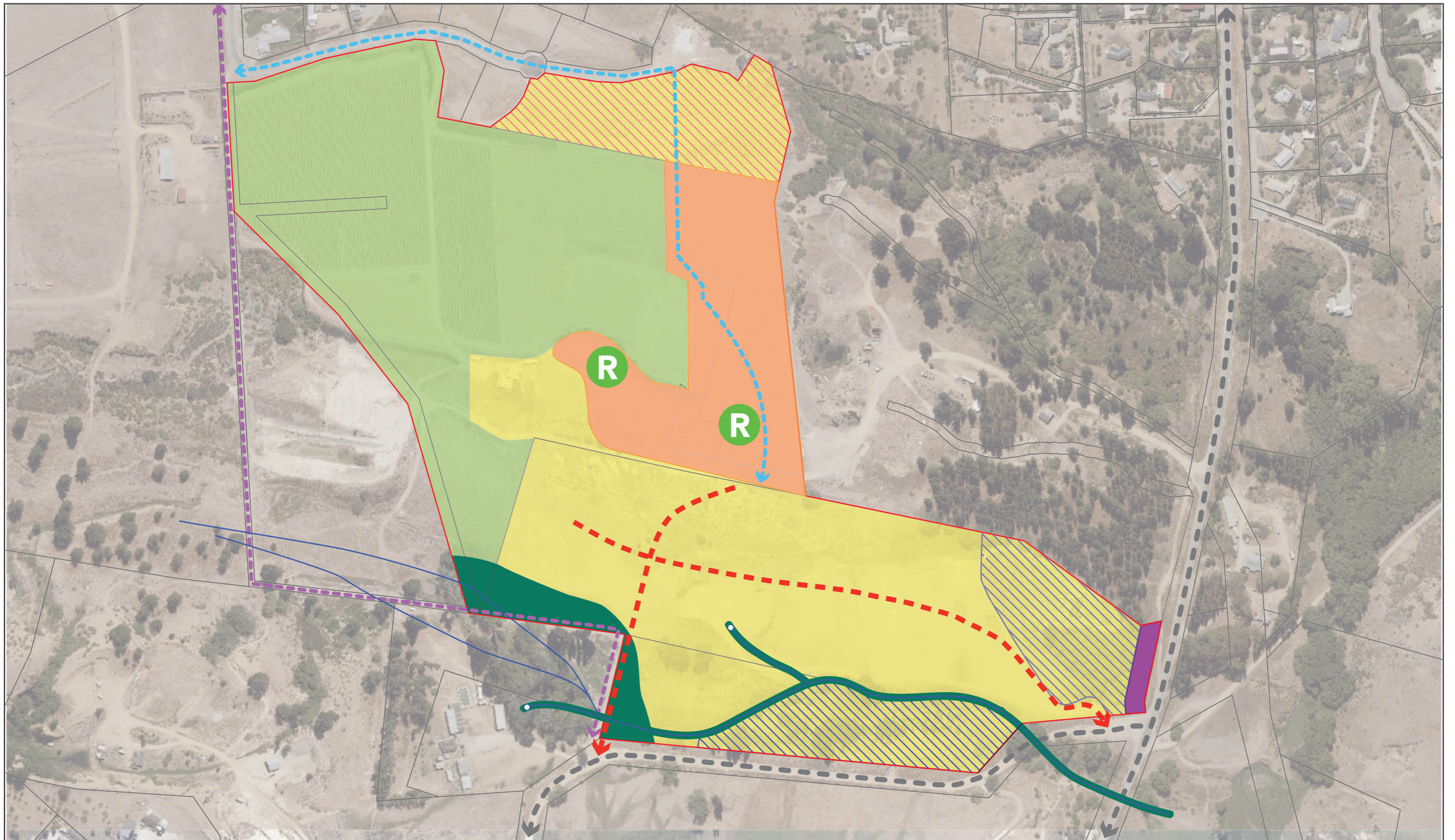


Figure 4. Rural/Village approach



To achieve the 'rural hamlet' feel and embrace the land, both historically and environmentally, we are proposing in the development to design with the nature of the site by leaving productive land in production, avoiding steep slopes and heritage areas; enhancing wetlands and watercourses. We then are proposing designed clusters of housing that have their own curtilage but shared open space. These clusters would then be set within a landscape framework. The illustration shows a 2000m² site that 6 small footprint cottages focused on a shared garden. This is now commonly known as co-housing.





Bannockburn Discussion Document - Indicative Development Area Plan

Date:	02/09/22
Scale:	1:3000 @ A3
Revision:	F





Bannockburn has a rich landscape and architectural history which we would intend to build upon in the development of the site.

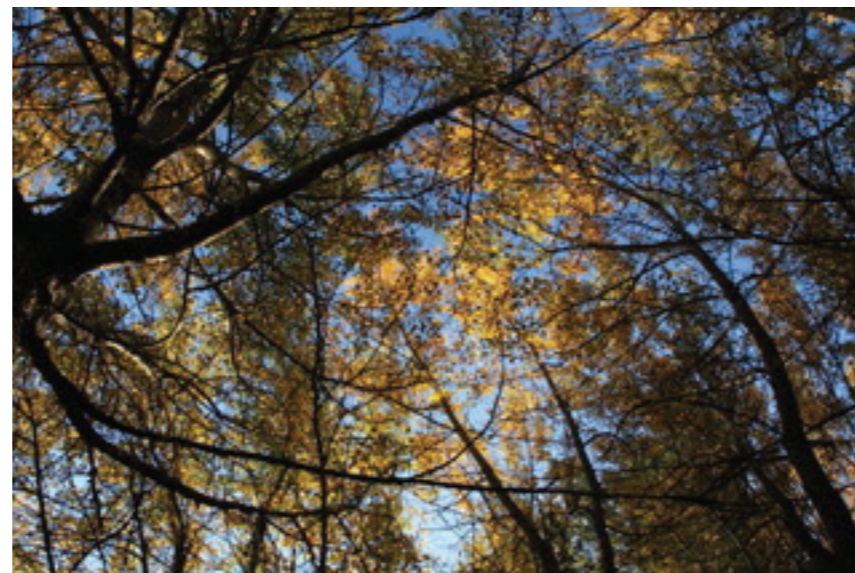
Bannockburn is a small historic gold mining town located outside of Cromwell in Central Otago, New Zealand. The area was first made known as a rich alluvial gold field and was mined extensively in the 1860s.

Its uniquely warm, dry climate earned it the name 'The heart of the desert', as climatic conditions and human activity have combined to strip the area of most of the original native vegetation leaving rocks, sands and soils exposed. Today, these climate conditions make Bannockburn the home of many vineyards and stone-fruit orchards.

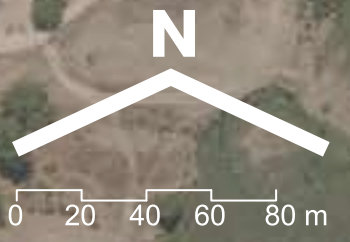
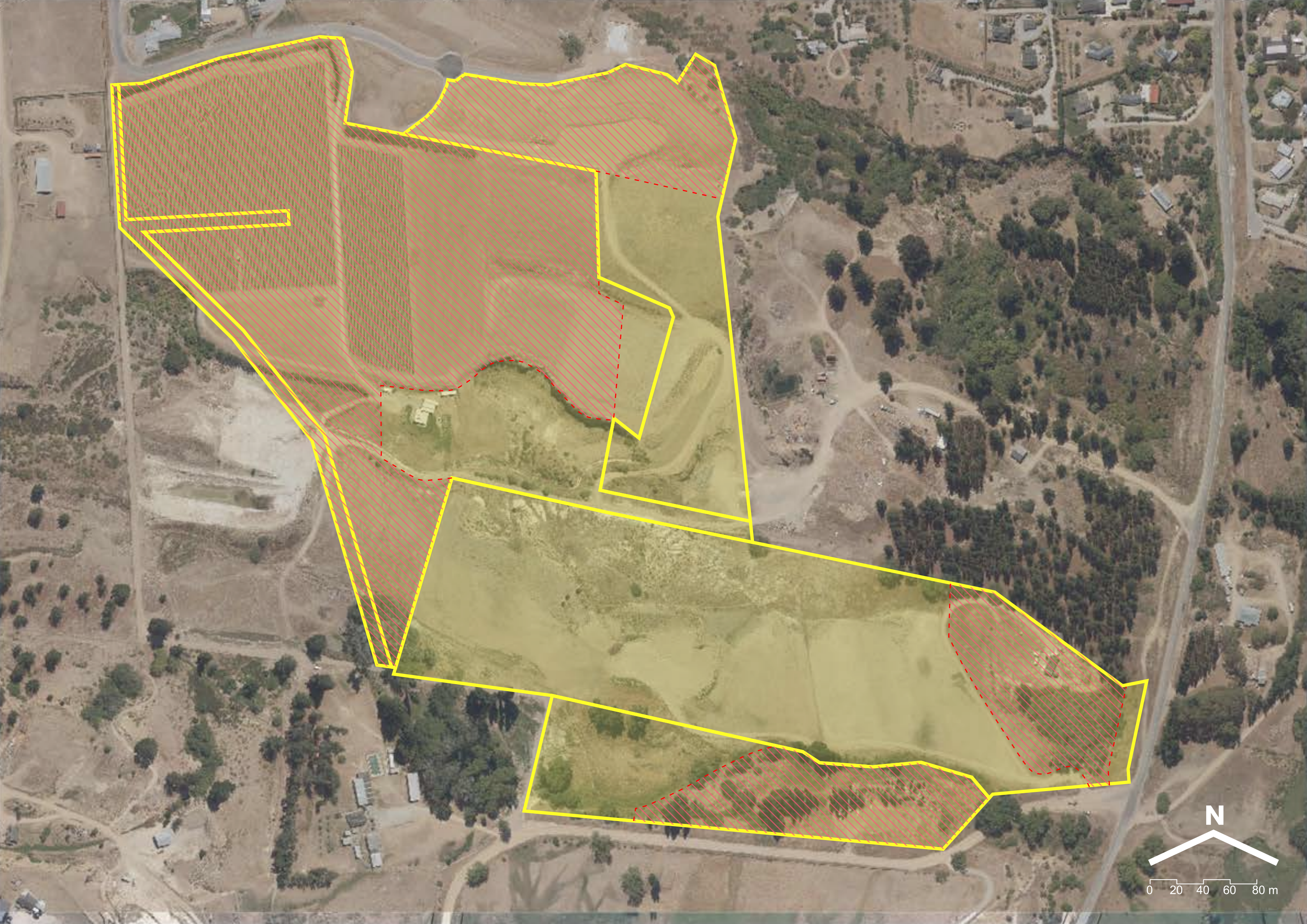


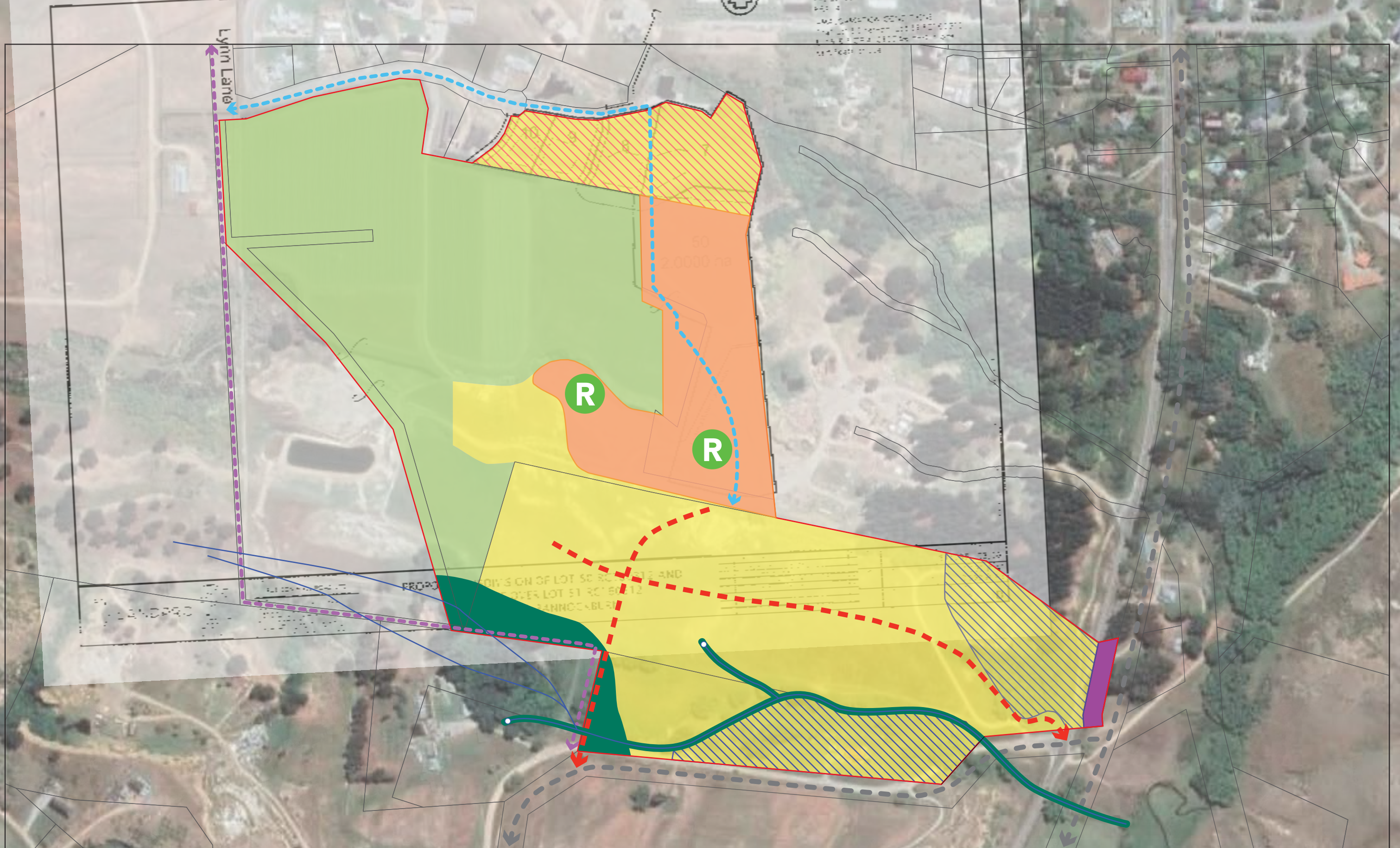
A Place to see the gold mining heritage sites, wander or mountain bike through the network of trails through sliced hillsides and stark, semi-desert landscape of Bannockburn Sluicings and nearby Stewart Town – recognised as a site of national significance through the Tohu Whenua programme. The Village and its surrounds offers café, restaurants, local pub, art and pottery galleries, community hall, gold mining heritage walks or bike rides and vineyards – the cellar doors and tasting rooms are popular with Otago residents and visitors alike. The Bannockburn inlet is a great spot for chilling out, swimming and boating. All this is within walking distance of the Town itself.

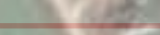

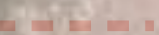
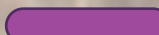
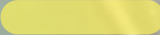









This moodboard captures the 'vibe' of Bannockburn and outlines the intent of the future development.



moodboard





 Outline Development Plan Boundary	 Large Format Residential Development Area	 Proposed Development Road Corridor, Indicative Alignment	 Commercial Area
 Residential Development Area	 Existing Proposed Subdivision	 Proposed Pedestrian / Cycle Link / Route	 Existing Stream
 Residential Development Area with Historic Overlay	 Existing Road Corridor	 Reserve, Indicative Locations, Size to be Determined Later	 Stormwater Management, Size/Shape Indicative
 Retained Horticulture & Viticulture Area	 Existing Pedestrian / Cycle Link / Route		

Bannockburn Discussion Document - Indicative Development Area Plan

Date:	02/09/22
Scale:	1:3000 @ A3
Revision:	F

