

TO: CODC Hearings administrator, Tarryn Lines, districtplan@codc.govt.nz

ADDITIONAL NOTES/ REPRESENTATIONS IN RESPECT OF THE NPS-UD

These notes supplement the representations made on behalf of Sugarloaf, Topp Property and the Klevstuls'.

Key points

1. The NPS-UD is not optional:
 - (a) s75(3)(a) RMA: a district plan must "give effect to" any NPS.
 - (b) "Give effect" to means "implement": *King Salmon*.
 - (c) s74(1)(ea) RMA: CODC must ... change its district plan in accordance with a NPS.
2. Therefore, within the scope of PC19 (and submissions on it), CODC **must** implement the NPS-UD.
3. Of course, the NPS-UD must be implemented on its terms. Significantly, section 1.3(1)(b) provides that the NPS-UD applies to: "planning decisions by any local authority that affect an urban environment". This is irrespective of whatever Tier a council is.
4. Urban environment is defined as:

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
5. The settlements of Bannockburn [Klevstuls'], Lowburn [Sugarloaf], and Clyde [Topp], and any logical extensions to them, qualify as "the urban environment" as they are:
 - (a) "areas of land" that are "predominantly urban in character": those areas may have special character, but that character is one of an urban village or township, rather than a rural one; and
 - (b) for Cromwell, Bannockburn, and Lowburn (and Pisa moorings), they are areas that are sufficiently connected or linked (including in respect of, say, water and wastewater systems) such that they are an "area of land" that "is, or is intended to be, part of a housing

and labour market of at least 10,000 people” – refer Cromwell Ward’s usually resident population (including the townships of Cromwell, and villages of Bannockburn, and Lowburn), as follows (which excludes the labour market):

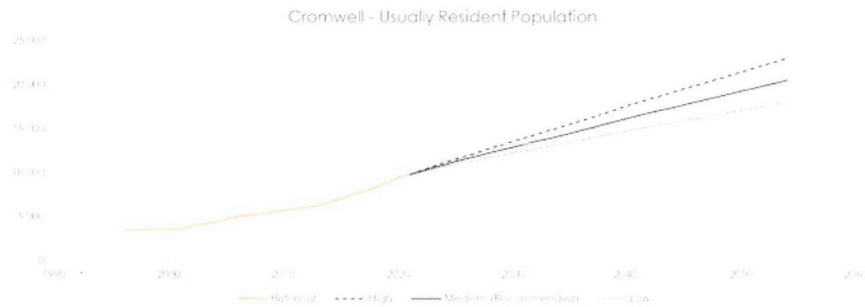


Figure 6: Cromwell Ward – Usually Resident Population

6. CODC cannot escape these facts. It is not a discretionary decision as to whether Cromwell, Bannockburn, and Lowburn (at least, as far as the submitters’ concerns relate) are an “urban environment”. It is also inescapable that a decision on Plan Change 19 and submissions on it is a “planning decision”, as the definition under the NPS-UD specifically identifies a decision on a plan change as a “planning decision”.
7. It then follows that CODC is a Tier 3 council, as that is identified as meaning “a local authority that has all or part of an urban environment within its region or district, but is not a tier 1 or 2 local authority”.
8. On this basis, the following Objectives and Policies of the NPS-UD must be implemented in making decisions on Plan Change 19 and submissions on it:
 - (a) Objectives 1–8.
 - (b) Policies: 1, 2, 5, 6(c)–(e), 8, 9, 10.
9. While there are specific provisions as to implementation, Part 3: does not limit the general obligation to give effect to relevant Objectives and Policies.

DATED 10 May 2023

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Project Manager for the Submitters