

Before the Hearings Panel  
Appointed by the Central Otago District Council

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Under the Resource Management Act 1991

In the matter of: Plan Change 19 to the Central Otago Operative  
District Plan

and **Rowan and John Klevstul**  
(Submitter #163)

Statement of Planning Evidence of Brett James Giddens

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16 May 2023



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## **EVIDENCE OF BRETT JAMES GIDDENS**

### **INTRODUCTION**

- 1 My full name is Brett James Giddens.
- 2 I am the Managing Director of Town Planning Group (NZ) Limited, a resource management and planning consultancy established in 2006 now with a team of 10 qualified and experienced planners that provide planning and resource development advice to private clients, local authorities and government agencies New Zealand-wide.
- 3 I hold a Bachelor of Science in Geology from the University of Canterbury, a Master of Applied Science in Environmental Management from Lincoln University, and have partially completed a Master of Resource & Environmental Planning from Massey University. I am an Associate of the New Zealand Planning Institute, a member of the New Zealand Resource Management Law Association, and a member of the Urban Design Forum of New Zealand.
- 4 I have over 20 years' experience as a practicing planner in New Zealand, with a focus on statutory planning, environmental assessment, policy development and analysis, and consenting. I am regularly engaged as an expert planning witness before Council hearings and the Courts. I have been involved in numerous district and regional plan change processes throughout New Zealand.
- 5 I am familiar with the Operative Central Otago District Plan (**CODP**) and have worked extensively in the area through my planning career. More recently I was involved in Plan Change 14 to the CODP, preparing the plan change documentation and presenting evidence in support of that rezoning through to its inclusion into the CODP.

### **CODE OF CONDUCT**

- 6 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## SCOPE OF EVIDENCE

- 7 I have been asked by Rowan and John Kelvstul (**Submitters**) to provide planning evidence with respect to their submission on Plan Change 19 (**PC19**) to rezone land encompassing the site at 2 Schoolhouse Road Bannockburn, legally described as Lot 1 DP 460583. The site is 7.3ha in area and has frontage to Bannockburn Road and Schoolhouse Road.
- 8 My evidence is limited to matters within my expertise in resource management planning.
- 9 In preparing this evidence I have read, refer to and rely on the evidence from the following persons:
- (a) Mr Rowan Klevstul – landowner
  - (b) Mr Andy Carr – traffic
  - (c) Mr Ben Espie – landscape
  - (d) Mr James Lunday – urban design
  - (e) Mr Mark Cruden – infrastructure
- 10 I also refer to and rely on the planning evidence of Mr Craig Barr dated 11 April 2023 in the PC19 Stage 1 hearing which identified and discussed the National Policy Statement for Urban Development 2020 (**NPS-UD**) in relation to PC19. Mr Barr’s evidence also touched briefly on the submitters land in the context of the wider density for Bannockburn. The particular relief the Mr Barr suggested at that time for Bannockburn was as follows:

SUB-S1	Minimum Allotment Size	Activity Status where compliance not achieved
Large Lot Residential Zone (Precinct A – Bannockburn)	The minimum size of any allotment for residential activity shall be 1,200m <sup>2</sup> and an average of 1,500m <sup>2</sup> .	NC
Large Lot Residential Zone (Precinct B – Schoolhouse Road)	The average allotment size of any allotment for residential activity shall be 1,000m <sup>2</sup> .	NC

- 11 I agree that this relief remains an option but propose a slightly different (within scope) approach that, having reflected on the more specific expert evidence now available, is more appropriate for the site, and Bannockburn more generally.
- 12 In preparing this evidence I have read and considered a range of documents, which I have outlined in my **Annexure A**. Furthermore, I have visited the site a number of times and I am familiar with Bannockburn and its surrounds.
- 13 My evidence is set out as follows:
  - (a) a brief summary of the context;
  - (b) an executive summary;
  - (c) an outline of the decision-making framework and key statutory policies;
  - (d) identification and evaluation of the key issues;
  - (e) the adverse effects on the environment;
  - (f) costs and benefits; and
  - (g) concluding comments in regard to section 32 of the RMA.

### **CONTEXT**

- 14 Submission #163 as it is now advanced, and my evidence, focuses on what has been referred to as Rowan and James Klevstuls' land at 2 Schoolhouse Road. I refer to this land as the "site". I note the original relief sought included rezoning the site from Rural Resource Area (**RRA**) to Large Lot Residential (**LLR**) zone, with additional amendments to the plan provisions to allow greater density including through an average lot size of 1,000m<sup>2</sup>, or less where a hamlet (or cluster) outcome was to be achieved.
- 15 After reading Ms White's section 42A report, where she helpfully opined that the relief sought by the submitter was as not as clear as it could have been, I have since provided planning assistance to the submitter alongside its technical experts and refined the relief. In this regard, it has been "simplified" from the original submission and is in better keeping with the philosophy and direction of PC19, as well as the wider framework already existing in the CODP.

- 16 My planning evidence builds on the concise relief identified by Mr Barr in Stage 1, which simply sought rezoning of the submitter's site to the LLR zone with an average density of 1,000m<sup>2</sup>. I propose some additional introductory text to the LLR zone together with a specific policy to provide direction for the consideration of any consent application, and the introduction of a 400m<sup>2</sup> minimum lot size together with the 1,000m<sup>2</sup> average lot size for the precinct which was originally sought. My suggested provisions are contained in **Annexure B**.
- 17 I understand other parties involved in PC19 have promoted the inclusion of a Comprehensive Residential Development rule to the Large Lot Residential Zone (if not other zones). I have not seen the detail of any such rule, but I imagine that it could also achieve the clustering or hamlet option identified by the Klevstuls as an important tool in the toolbox (particularly for their site). I would be prepared to consider this option further once I have seen the detail of their relief.
- 18 Consideration has been given to the use of a Structure Plan to provide some additional certainty of outcome. While, after careful reflection, I do not consider a Structure Plan is necessary, I acknowledge that Structure Plans can be useful tools in this regard and that one has been prepared. Accordingly, the option is available to the panel to adopt, if it considers merit in doing so. At the very least, the Structure Plan that has been prepared provides a good indication of the type of outcome sought by the Klevstuls for their site.

#### **EXECUTIVE SUMMARY**

- 19 I consider the proposed LLR rezoning to be more appropriate than the status quo RRA zoning because:
- 19.1 it will provide for social and economic well-being through additional housing opportunities at Bannockburn, in circumstances where the Council's own assessment identifies a shortfall in capacity for growth at Bannockburn;
- 19.2 the site presents a logical and legible extension to the existing township, and an opportunity to create a strong southern edge to the township and an expansion to the pedestrian public trail network;
- 19.3 landscape impacts will be low, or positive (given the current unkempt nature of the site – understandably as it has no use), and the wider landscape character and amenity will be maintained;

- 19.4 there are no infrastructure or traffic impediments to the rezoning;
  - 19.5 natural hazard risks are low and are not an impediment to rezoning; and
  - 19.6 highly productive land is avoided and therefore there will be no loss of a valuable land resource.
- 20 I support a location specific policy and limited number of rules to ensure an outcome that is appropriate, and more appropriate than the status quo in the absence of any rezonings. While I do not consider it necessary, the inclusion of a structure plan (which has been prepared) is also a possibility that may provide for greater certainty of outcome. In any event the structure plan work illustrates clearly how appropriate the site is from a location and connectivity perspective, in particular.

## **DECISION MAKING FRAMEWORK AND KEY STATUTORY POLICIES**

### **Section 32 and Section 32AA requirements**

- 21 The Council officers have prepared a section 32 assessment as part of the notified PC19. This has been to some extent superseded in evidence by a section 42A report that considers the submissions made against what is being sought through PC19.
- 22 The Resource Management Act 1991 (**RMA**) requires, through Section 32AA(1)(a), that a further evaluation be provided in respect of the amendments sought to the existing proposal since the section 32 evaluation was completed. In this regard, the "existing proposal" is PC19 as notified (which retained the land as Rural – RRA) and the "amending proposal" is the relief sought by the submitter to rezone its land LLR.
- 23 The overarching principles of section 32 must be considered, namely:
- 23.1 are the objectives the most appropriate to achieve the purpose of the RMA?
  - 23.2 are any policies or rules the most appropriate way to achieve the objectives?
  - 23.3 will the policies or rules be an effective and efficient way to achieve the objectives (by assessing benefits and costs - in a quantifiable way if possible - including the opportunities for economic growth and employment)?

23.4 will there be a risk of acting or not acting (i.e. including policies or not including policies) if there is uncertain or insufficient information?

24 Ultimately, the primary question in terms of section 32 is whether it is the RRA or LLR zone (including any refined provisions) that is the most appropriate zone to achieve the objectives of PC19 and the CODP.

25 I will come back to these key matters in my concluding comments.

### **Part 2 of RMA**

26 The purpose and principles in Part 2 of the RMA emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations.

27 Section 6 sets out matters of national importance that are to be recognised and provided for. The rezoning avoids Outstanding Natural Landscapes and Features [s6(b)] and avoids features of historic heritage [s6(f)], meaning those values in the district with remain protected as a result of the rezoning and section 6 is not relevant to the rezoning.

28 Section 7 is relevant to this proposal in terms of the efficient use of the land, opportunities for the maintenance and enhancement of amenity values and the quality of the environment.

29 Section 8 requires that the principles of the Treaty of Waitangi be taken into account. The site is not known to have any cultural values and no further submissions have been made that raised this matter.

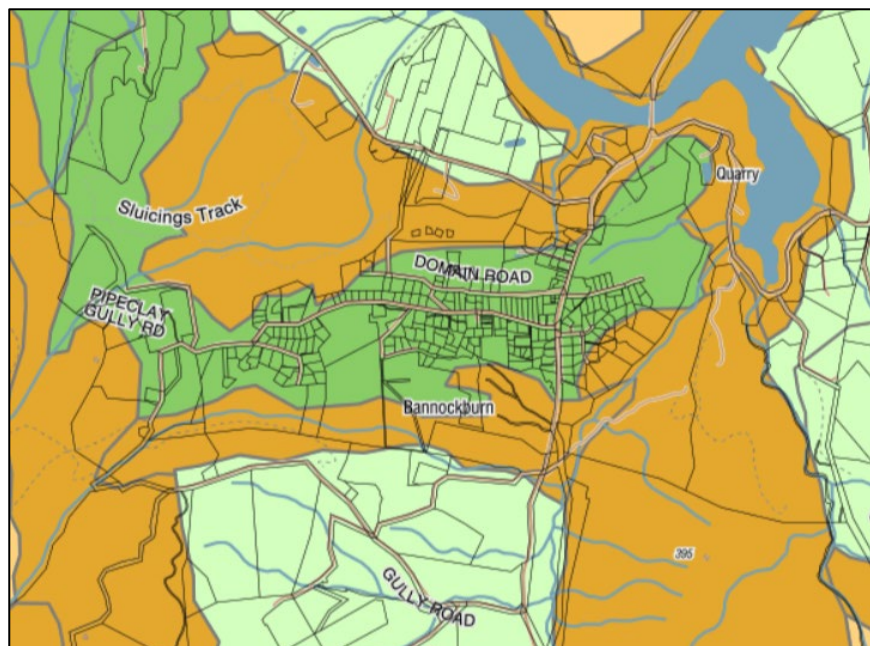
30 Notably, these matters are expressed and given effect through the Partially Operative Otago Regional Policy Statement 2019 (**PORPS**).

### **National Policy Statements**

31 When preparing district plans, territorial authorities must give effect to any National Policy Statement. The NPS-UD and the National Policy Statement for Highly Productive Land 2021 (**NPS-HPL**) are relevant to this proposal.

32 The NPS-HPL identifies nearly all the existing Bannockburn township and some surrounding RRA zoned land as Land Use Category (**LUC**) 3, which is highly productive land under the NPS-HPL and in general terms, a constraint on urban development in the policy sense.

- 33 It is notable in my view that the site is not identified as LUC 1, 2 or 3 and is therefore not highly productive land. Figure 1 below identifies that the subject land is LUC 7 and (to a very small extent) LUC 4. LUC 7 is almost the worst category (LUC 8 is the worst). LUC 7 is unsuitable for arable cropping, and is of low (the lowest) suitability for pastoral grazing and production forestry. The limitations of the site for productive use are well evidenced by the fact that it has not been put to any such use.
- 34 Therefore, while the NPS-HPL is relevant in terms of wider land use and zoning context for PC19, the subject site does not engage with the policies and the NPS-HPL does not apply as a constraint to this rezoning request.



**Figure 1.** Landcare Research Mapping illustrating the LUC ratings in the Bannockburn area. The Site is LUC 7 (brown) and LUC 4 (light green). Bannockburn and surrounds are LUC 3 (dark green).

- 35 In his Stage 1 evidence, Mr Barr<sup>1</sup> discussed whether the District is a Tier 3 local authority in terms of the NPS-UD and identified some of the key provisions of the NPS-UD which are relevant. I agree with Mr Barr on these matters and do not repeat them. Further to that, however, I consider that that it is not determinative for this rezoning request whether the Panel finds that the District is Tier 3 or otherwise.

<sup>1</sup> Evidence of Craig Barr, Stage 1 PC 19 text 11 April 2023.



- 36 I discuss the NPS-UD below in greater detail as it relates to the relief sought.

**Partially Operative Regional Policy Statement for Otago 2019 (PORPS)**

- 37 I consider that there is one objective and two policies of the PORPS which are directly relevant to the relief sought and are summarised below with the full text provided in **Annexure C**:

37.1 **Objective 4.5** – that urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments;

37.2 **Policy 4.5.1** – that urban growth is provided for by the provision of sufficient capacity, and coordinating the extension of urban areas with infrastructure development programmes to provide infrastructure in an efficient and effective way; and

37.3 **Policy 4.5.2** – that infrastructure is strategically integrated, including through coordinating the design and development of infrastructure with land use change in growth and redevelopment planning.

**Operative Central Otago District Plan (CODP)**

- 38 The relevant CODP and PC19 objectives and policies are contained in **Annexure D**. Of particular relevance are CODP Objectives 6.3.3 and 6.3.4 and their related Policies 6.4.1 and 6.4.2, which I list in full below:

**6.3.3 Objective - Adverse Effects on Natural and Physical Resources**

*To avoid, remedy or mitigate the adverse effects of urban areas on the natural and physical resources of the District.*

**6.3.4 Objective - Urban Infrastructure**

*To promote the sustainable management of the District's urban infrastructure to meet the present and reasonably foreseeable needs of the District's communities.*

**6.4.1 Policy - Maintenance of Quality of Life within Urban Areas**

*To maintain and, where practicable, enhance the quality of life for people and communities within the District's urban areas through:*

- (a) *Identifying and providing for a level of amenity which is acceptable to the community; and*
- (b) *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*
- (c) *Recognising that change is inevitable in the use of land to enable the community to provide for its wellbeing.*

#### **6.4.2 Policy - Expansion of Urban Areas**

*To enable the expansion of urban areas or urban infrastructure in a manner that avoids, remedies or mitigates adverse effects on:*

- (a) *Adjoining rural areas.*
- (b) *Outstanding landscape values.*
- (c) *The natural character of water bodies and their margins.*
- (d) *Heritage values.*
- (e) *Sites of cultural importance to Kai Tahu ki Otago.*
- (f) *The integrity of existing network utilities and infrastructure, including their safe and efficient operation.*
- (g) *The life supporting capacity of land resources.*
- (h) *The intrinsic values of areas of significant indigenous vegetation and habitats of significant indigenous fauna.*
- 39 The most relevant PC19 objective is **Objective LLRZ-O2** 'Character and amenity of the Large Lot Residential Zone', which states:

*The Large Lot Residential Zone is a pleasant, low-density living environment, which:*

- 1. contains predominantly low-rise and detached residential units on large lots;*
- 2. maintains a predominance of open space over built form;*
- 3. provides good quality on-site amenity and maintains the anticipated amenity values of adjacent sites; and*
- 4. is well-designed and well-connected into the surrounding area.*

- 40 I note that the relief sought definitively meets the specific policy relating to expansion of urban areas (Policy 6.4.2), as well as the key objective of the LLR zone for present purposes (Objective LLRZ-O2) other than the "predominantly ... large lots" objective. The evidence of the submitter is that the other objectives are better achieved by enabling, on a large site, cluster or hamlet development (which necessarily involves smaller lots, as well as larger lots).

#### **KEY ISSUES**

- 41 The S42A report has addressed submissions seeking rezoning extensions to the south and west of the notified PC19 zoned extent of Bannockburn in a group and has considered those submissions in the context of the following matters:

- 41.1 Highly productive land;

- 41.2 The demand for housing in Bannockburn falling short of supply, and this being exacerbated if the Domain Road Vineyard promulgated through PC19 as LLR zone is not accepted, while noting that at a Cromwell ward level (i.e Bannockburn, Cromwell and Pisa Moorings combined) there is sufficient housing capacity;
- 41.3 The spatial extent of Bannockburn and whether this should extend to the south;
- 41.4 With particular regard to the Klevstul submission, how the Rural Hamet vision promoted in the submission would be realised, including through the most appropriate plan provisions; and
- 41.5 How the rezoning could be serviced.

**Highly Productive Land**

- 42 The site is not HPL, and therefore the rezoning request does not engage (and risk being contrary to) the NPS-HPL. It must be concluded that the rezoning request gives effect to the NPS-HPL.

**Is there sufficient housing capacity in Bannockburn?**

- 43 Ms White’s S42A Report Stage 2 identifies that the Bannockburn township has a shortfall of housing capacity which would be exacerbated if the Domain Road Vineyard site is not accepted for LLR zone. Ms White recommends that if the Domain Road Vineyard site is accepted for rezoning, a building line restriction is imposed to avoid buildings on an elevated terrace<sup>2</sup>. I am not sure of the extent of this as the recommended building line restriction was not mapped in the Section 42A report, however this indicates that the extent of feasible housing in Bannockburn may be less than what was notified as part of PC19, even if the Domain Road Vineyard is accepted in some form. It is also unclear, even if the Domain Road Vineyard is rezoned, how quickly it might be developed for residential use. Its brand is a strong one and it may not in practice transition in the short term (or longer).
- 44 Ms White’s evaluation and recommendations appear to be rather circumspect in that while there is sufficient housing capacity in the Cromwell Ward overall, there is a shortfall in Bannockburn, but that this may be unsurprising given that the Cromwell Spatial Plan did not identify any growth for Bannockburn. I infer from Ms White’s recommendations that there is a discretionary judgement to be made by the Hearings Panel as to whether some expansion is enabled at Bannockburn which would help alleviate the identified

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<sup>2</sup> S42A Report Stage 2 at [84].

housing capacity shortfall, or choose instead to consolidate growth in Cromwell.

- 45 In the context of the policy framework relevant to PC19, I do not consider that discretion to be so readily available. The direction of the NPS-UD is that opportunities for housing and making room for growth are provided for where there is demand to meet the needs of the community, though a variety of housing forms and to support competitive land markets.
- 46 NPS-UD Policy 2 requires that Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term. I consider that the NPS-UD can only be given effect to if the shortfall in capacity at Bannockburn is rectified, such as through appropriate expansions, rather than deferring all development to Cromwell. This is particularly relevant where a large portion of the housing capacity within Cromwell is MRZ and LRZ which is a different housing type to that offered through this proposal.
- 47 In addition, existing CODP Policy 6.4.2 contemplates urban expansions providing a range of environmental effects related qualifiers are met. The CODP framework when contemplating urban extensions, does not explicitly prefer residential development to be focused in one area over the other.
- 48 NPS-UD Objective 2 seeks to improve housing affordability by supporting land and development markets. In this regard, whether a local authority is achieving its 'housing bottom lines' in the case of Tier 1 or 2 local authorities, or providing sufficient housing capacity for Tier 3 local authorities, NPS-UD Objective 2 approaches the concept of a local authority achieving sufficient housing capacity not as a ceiling, but as a minimum and to be responsive to opportunities for proposals that would add further to housing supply.
- 49 For these reasons, I consider that any shortfall of housing capacity in Bannockburn should be resolved within Bannockburn rather than reliance on other settlements in the Cromwell Ward. The above evaluation of the NPS-UD and also reinforces my view that while the Cromwell Spatial Plan is an important document which has provided insights into future growth of Cromwell, in a decision making context it is a subordinate consideration to the NPS-UD and CODP Policy 6.4.2.
- 50 I also note that PORPS Policy 4.5.1 requires that urban growth and development meets a range of matters, including in (a) that future urban growth areas are in accordance with any future development strategy for that district. Future Development Strategies are defined in Subpart 4 of the NPS-UD as part of the requirements for Tier 1

and 2 local authorities. The Cromwell Spatial Plan is not a future development strategy.

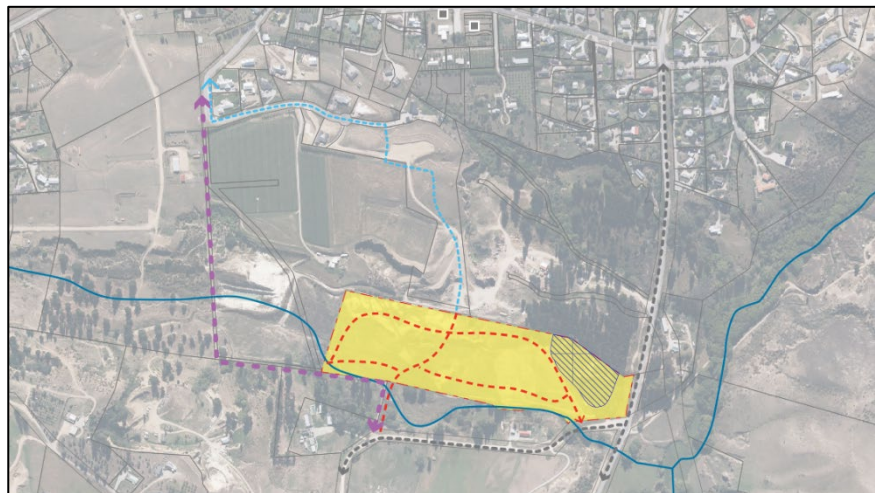
- 51 In the event that there is sufficient housing capacity for Cromwell if one or more all of the rezoning submissions are accepted, the NPS-UD Objective 2 approaches the concept of a local authority achieving sufficient housing capacity not as a ceiling, but as a minimum and to be responsive to opportunities for proposals that would add further to housing supply.
- 52 In this context, Policy 8 of the NPS-UD is relevant as part of the responsive planning obligation of local authorities which requires local authorities to be responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.
- 53 I consider that in a Bannockburn context, the addition of around 35 residential lots in a manner that is an appropriate and sympathetic response to the character of Bannockburn and matters identified in Messrs Espie and Lunday's evidence, would provide a significant increase in housing capacity while achieving a well-functioning urban environment.
- 54 Overall, I consider the proposal is consistent with the NPS-UD, and the rezoning would contribute positively toward the District Plan giving effect to the NPS-UD.

**What is the most appropriate edge to the southern part of Bannockburn township?**

- 55 I refer to the evidence of Mr Lunday and Mr Espie who have described the site and its attributes, together with the wider context, from an urban design and landscape perspective respectively.
- 56 Mr Lunday has undertaken a comprehensive constraints mapping exercise. He identifies the logical area for any extension of Bannockburn township to be to the South, as indicated on his Figure 9 (the hatched area) reproduced below.



- 57 I note that this area includes the Klevstul land, as well as what is known as the Davies land. It also includes land that is already being used for non-rural activities (a commercial/ industrial yard and storage area).
- 58 The Structure Plan prepared by Mr Lunday (although not necessarily needing to be included in the District Plan) demonstrates the connectivity and logical edge as follows:



- 59 As Mr Espie identifies, "The requested area of zoning would mean that [the current southern residential boundary of Bannockburn] is replaced with a new zone boundary that follows the gut of Smiths Gully. The pattern of development that is enabled will be logical and will not be out-of-character at an immediate scale nor a broader scale."

- 60 I consider the provisions will be effective at avoiding a sense of sprawl and uncontained urban development, and will be consistent with ODP Policy 6.4.2 by avoiding or mitigating adverse effects on the adjoining rural area.
- 61 Ms White has addressed the matter of potential extensions to the south and/or west of Bannockburn as raised by several separate submitters. I am also cognisant of submissions and further submissions on the overall growth and direction for Bannockburn. Ms White identifies<sup>3</sup> that the Cromwell Spatial Plan did not specifically identify any additional areas for growth in Bannockburn, but instead opted to retain Bannockburn to their existing extents, to strengthen a compact pattern of development within existing Cromwell. PC19 as notified deviated from the Cromwell Spatial Plan by identifying further areas around Bannockburn for urban development, including highly productive land used for productive viticulture activity. In my opinion, the growth for Bannockburn is squarely a matter for the Panel's consideration.
- 62 I consider that the Cromwell Spatial Plan is an important document which can be referenced as a tool utilised as part of a process to understand community views on growth and development, but equally as useful as it relates to PC19 is the feedback provided on submissions that were made by way of further submission from members of the Bannockburn community.
- 63 For the above reasons, the resultant extension to the southern boundary of Bannockburn is more appropriate than the notified PC19 zoning from a spatial planning perspective because it will provide a zoning regime which forms a distinguishable and defensible boundary to the southern extent of the township. The zoning extension will also give better effect to the NPS-UD than PC19 as notified.

**What is the most appropriate way to provide for LLR subdivision and development on the rezoning site?**

- 64 Having considered the revised relief, evidence from Messrs Espie, Lundy, Cruden and Carr, and the S42A reports of Ms White and Ms Muir, I consider that in the most appropriate way to achieve the objectives of the LLR zone and ODP Policy 6.4.2 is to ensure the identified resource management issues are clearly identified and implemented in future subdivision and development is to include a small number of bespoke provisions. I consider that these can be accommodated while retaining the overall design and integrity of the PC19 framework.

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<sup>3</sup> Stage 2 S42A Report 1 Liz White at [112].



- 65 The rezoning would result in the creation of a new Precinct (4) within the LLR zone, together with the amendments as set out below in my **Annexure B**.
- 66 I note that the structure plan option could be seen as ensuring the new southern edge of Bannockburn is defined in a legible and defined way, together with the anticipated connectivity and broader outcomes for the site. Given the proposed additional introductory text, new policy, and the consent process that will need to be undertaken for any development on site, I am satisfied that the structure plan is not necessary; but could be included if the Panel did want to provide that additional direction.
- 67 The effect of the location specific provisions, as compared to a simple application of the standard provisions to the Klevstul site, is shown in the evidence of Mr Lunday. His comparison of the standard approach and the clustering or hamlet development enabled by the above rules is shown below.





- 68 The better achievement of all the open space and amenity outcomes under the cluster or hamlet approach is immediately obvious.

**Can the rezoning be serviced?**

- 69 Ms Muir’s S42A report identifies that servicing the subject site would require significant upgrading to existing water reticulation and storage capacity to achieve the required pressure to the site and would also require increases in wastewater treatment.
- 70 I note that servicing constraints already exist in the water and wastewater network which the Council have identified as being required to be resolved to be able to accommodate the development associated with the PC19 zoning framework<sup>4</sup>.
- 71 While the proposed rezoning would require extensions to the existing wastewater scheme and would add demand to that network, there exists the ability for the Council to garner funding for infrastructure upgrades through development contributions and/or developer agreements to assist with the provision of infrastructure. Under a status quo and business as usual approach, the funding for infrastructure upgrades which are necessary in any case would fall on ratepayers and revenue secured through non targeted development contributions raised at the time of subdivision. The addition of greenfield areas to the LLR zone provides opportunities for the Council to work with subdividers to contribute to network infrastructure.
- 72 While a reticulated system is preferred and as identified in Mr Cruden’s evidence is feasible subject to extensions to the existing network. The site is able to be serviced with onsite wastewater and water as explained in Mr Cruden’s evidence.
- 73 I consider that on site servicing is a practicable and feasible option for the proposal. There is sufficient area onsite for a communal wastewater treatment and disposal system if that was required.
- 74 Therefore, in the absence of the Council being able to support connection to the reticulated network, there are practicable alternatives available. For these reasons I consider the zoning is appropriate now from an infrastructure perspective.

**EFFECTS ON THE ENVIRONMENT OF THE REZONING**

- 75 The following provides a summary of the adverse effects of the rezoning.

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<sup>4</sup>Stage 2 S42A Report 2 Julie Muir at [37].

### **Traffic**

- 76 Mr Carr has assessed the effects of the activity in terms of the existing roading environment. Mr Carr identifies that the proposal can be accommodated within the existing roading network.
- 77 A new single access will be formed onto Schoolhouse Road, with an upgrade to Schoolhouse Road and the intersection of Bannockburn and Schoolhouse Road required. The internal intersection is also shown on the structure plan. The Structure Plan includes the primary access via Schoolhouse Road with a tolerance to that location of 30 metres. The Structure Plan shows a tolerance to the internal access road intersection with a tolerance of 50m, including to ensure that in the event of future subdivision and development the internal road intersection is setback from the Schoolhouse Road intersection a sufficient distance. While the Structure Plan is not necessarily to be included in the District Plan, the exercise has demonstrated how it access can be appropriately provided.
- 78 Overall, I consider the accesses can be established, and any upgrades to the intersection of Schoolhouse Road and Bannockburn Road can be installed to an appropriate standard and the effects on traffic and the roading environment can be adequately managed.

### **Natural hazards**

- 79 The Site is not identified in the District Plan as subject to natural hazards, however, a reference for hazard identification is the Otago Regional Council's hazards register. Using this tool, two hazards are identified on the Site, being an alluvial fan hazard and liquefaction hazard. The liquefaction hazard is identified as "low to none". The Site is also recorded as being subject to various ground shaking classes.
- 80 The most relevant natural hazard is likely to be the identified alluvial fan affecting the southern portion of the Site which coincides with a stream which flows through the Site in a west to east direction. Mr Cruden has discussed this hazard in this evidence. On the basis of his evidence I do not consider that the alluvial fan, nor any other hazards are an impediment to the rezoning and development layout as identified in the Structure Plan. Further investigations would be undertaken as part of the more detailed subdivision and design to manage this matter.
- 81 Therefore, I consider the proposal is appropriate from a natural hazards risk perspective.

## **Landscape**

- 82 Mr Espie's assessment identifies that the site has capacity to absorb urban development to LLR density, and that the location specific provisions will assist with integrating the urban development into its context, and will reinforce an edge to the Bannockburn township. The transition from RRA to LLR zone in a landscape effects context will not result in buildings on hills, ranges or skylines and is overall compatible with the surrounding environment. Mr Espie considers that the wider rural environment referred to as the Shepards Creek Valley landscape has landscape elements which require management with the proposed urban zoning and its interface.
- 83 While the proposal by its nature will modify the site so that it is no longer characterised as rural, the adverse effects on the surrounding rural context are minimised, particularly in terms of the transition to the south.

## **Urban Design**

- 84 The evidence of Mr Lunday identifies that the proposed location specific provisions will encourage a cluster/hamlet style development which offers a variety of allotment sizes while still achieving a predominance of open space over built form.
- 85 While these matters are internal to the site to an extent, they also affect the relationship of the site with the wider rural environment, and also relate to the development site edge treatment.
- 86 Mr Lunday's evidence provides sufficient confidence, in my view that the development will not give rise to sprawl or ad hoc development. Rather, the built form can be neatly contained within the parts of the site where there is greatest capacity to absorb development.

## **Summary of effects**

- 87 In summary, I consider that the adverse effects of the rezoning are appropriate and not sufficiently great so as to weigh against the rezoning.

## **COSTS AND BENEFITS OF THE REZONING**

- 88 Section 32 requires consideration as to whether the policies or rules will be an effective and efficient way to achieve the objectives by assessing benefits and costs.
- 89 The benefits of the rezoning have been traversed in my evidence and in my opinion will contribute to the rezoning giving effect to PC19 Objective **LLRZ-O2** 'Character and amenity of the Large Lot Residential Zone'.

90 My suggested proposed policy for Precinct 4 is reproduced below:

*Provide for a variety of lot sizes, managed by a minimum lot area combined with an average lot size, to maintain a high open space to built form ratio, while ensuring:*

- (a) the establishment of a strong and legible southern boundary to the Bannockburn township through open space, landscaping and ecological enhancement;*
- (b) the provision of pedestrian public access where opportunities exist; and*
- (c) the establishment of landscaping to filter and soften views of built form as viewed from public roads and to integrate with the surrounding area.*

91 This policy implements objective LLRZ-O2.

92 The main cost of the rezoning is a loss of rural land. That cost is low in consideration of the landscape evidence of Mr Espie (from a landscape effects perspective) and the loss is nil in terms of impact on highly productive land as the land is almost entirely LUC 7 (which is poor quality land). The low productivity of the land would in my opinion create strong tension against the objectives and policies of the RRA zone if that zone was to be retained because of the lack of prospect that the land could be used efficiently for rural purposes that the current zone anticipates. This in my opinion is a strong supporting factor for the rezoning of the site to LLR zone.

93 Rezoning the land creates a number of benefits, as I have noted throughout my evidence. It would create a viable use of land that, under its current zoning, has little to no potential for rural activity.

94 In my opinion, the benefits of the rezoning far outweigh any costs, and through the adoption of my suggested policy, the rezoning will give effect to the objectives of PC19 and the CODP.

### **CONCLUDING COMMENTS**

95 Turning back to section 32 of the RMA:

95.1 The objectives of the LLR zone are the most appropriate to achieve the purpose of the RMA. This is same zone as the adjoining Bannockburn township and will provide some consistency over the submitter's land;

95.2 The existing policies are the most appropriate way to achieve the objectives, alongside the site-specific refinements to the rules relating to lot averaging, minimum allotment size and a maximum cap on development yield;

95.3 The benefits of the rezoning far outweigh the costs, through the management of landscape effects, addition to the local housing supply which in turn creates employment and has economic positives, avoiding significant natural hazards,

enabling development to be appropriately serviced, providing safe and efficient access to the roading and pedestrian trails networks, and notably avoiding highly productive land and providing an efficient use of land that would otherwise have little rural productive value.

95.4 The risk of acting (i.e. adopting the rezoning) is low and the risk of not acting (i.e. retaining the land as rural) would have adverse implications on the submitter meaning that the land is effectively sterilised from reasonable use bearing in mind that it not located on soils with productive values, which in turn creates issues with the objective and policies of the Rural zone which the site would struggle to achieve through permitted or consented activity.

96 In my opinion, the most appropriate option for the land is to zone it LLR as requested by the submitter.

Dated: 16 May 2023



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Brett James Giddens

## **Annexure A – Information Read**

- The PC 19 documentation including the notified text, the Operative District Plan text which is identified to amended and the Council's section 32 evaluation;
- The Cromwell Spatial Plan and also the Vincent Spatial Plan;
- The Resource Management Act 1991;
- The partially operative Otago Regional Policy Statement 2019 and the proposed Otago Regional Policy Statement 2021.;
- Relevant national policy statements including the NPS-UD and the National Policy Statement Highly Productive 2022;
- The Council's Stage 1 section 42A report on the PC 19 text prepared by Ms White;
- The Council's Stage 2 section 42A report on the PC 19 text prepared by Ms White;
- The Council's Stage 2 section 42A report 2 on infrastructure prepared by Ms Julie Muir;
- Submissions and further submissions from those persons who have had an influence and/or garnered attention in the s 42A report and/or supplementary evidence.

# Annexure B

## Suggested Provisions

The rezoning related additions are shown in red underline and strikethrough and are tracked against the notified PC19 text. The optional structure plan relief is noted in green.

### LARGE LOT RESIDENTIAL ZONE

#### Introduction

The Large Lot Residential Zone (LLRZ) is located in some of the outer residential areas within the townships of Alexandra, Clyde and Cromwell, as well as in Bannockburn, Lowburn and Roxburgh, along with some isolated areas of existing large lot residential near Lake Dunstan.

The density within the Large Lot Residential Zone is the lowest of all the residential zones, providing for detached houses on large sites, maintaining a high open space to built form ratio. Generous setbacks are also provided from the road and neighbouring boundaries. Buildings are expected to maintain these existing low density characteristics, minimise the effects of development on adjoining sites and integrate with the surrounding area.

The focus of the zone is residential, with limited commercial and community facilities anticipated. Within Precinct 1, slightly higher densities are anticipated, which reflects the historic pattern of development.

Within Precincts 2 & 3, a lower density is anticipated, to maintain the existing amenity and character in these areas. Precinct 4 provides for a low density of development at the southern edge of Bannockburn and to create and maintain a legible and strong urban edge to the township.

The Future Growth Overlay identifies any area that has been signalled in the Vincent Spatial Plan for Large Lot Residential zoning, in future. The provisions applying to this area are those of the underlying zoning, and therefore a Plan Change will be required to rezone this area in future. However, the Overlay is intended to identify any location where future growth is anticipated, when further supply of residential land is required, and provided that there is capacity within the reticulated water and wastewater networks to service the additional development.

#### Objectives and Policies Large Lot Residential Zone

Objective	
LLRZ-O3	Precincts 1, 2, 3 & <u>4</u>

The density of development in the Large Lot Residential Precincts recognises and provides for maintenance of the amenity and character resulting from existing or anticipated development in these areas.

**Policy**

<u><b>LLR-P9</b></u>	<u><b>Precinct 4</b></u>
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Provide for a variety of lot sizes, managed by a minimum lot area combined with an average lot size, to maintain a high open space to built form ratio, while ensuring:

- (a) the establishment of a strong and legible southern boundary to the Bannockburn township through open space, landscaping and ecological enhancement;
- (b) the provision of pedestrian public access where opportunities exist; and
- (c) the establishment of landscaping to filter and soften views of built form as viewed from public roads and to integrate with the surrounding area.

<u><b>LLR-P10</b></u>	<u><b>Structure Plans</b></u>
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Ensure that subdivision and development in any area to which a Structure Plan applies is developed in general accordance with the Structure Plan.

**Standards**

<b>LLR-S1</b>	<b>Density</b>	<b>Activity status where compliance not achieved:</b>
<b>Large Lot Residential Zone (Excluding Precincts 1, 2 &amp; 3)</b>	1. The minimum site area per residential unit is 2,000m <sup>2</sup> .	<b>NC</b>
<b>Precinct 1</b>	2. The minimum site area per residential unit is 1,000m <sup>2</sup> .	<b>NC</b>



<b>Precinct 2</b>	3. The minimum site area per residential unit is 3,000m <sup>2</sup> .	<b>NC</b>
<b>Precinct 3</b>	4. The minimum site area per residential unit is 6,000m <sup>2</sup> .	<b>NC</b>
<b><u>Precinct 4</u></b>	<b><u>5. The minimum site area per residential unit is 400m<sup>2</sup> while maintaining an average across the precinct of 1,000m<sup>2</sup>.</u></b>	<b><u>NC</u></b>
<b>LLR-S4</b>	<b>Building Coverage</b>	<b>Activity status where compliance not achieved</b>
<b>Large Lot Residential Zone (Excluding Precincts 1, 2 &amp; 3)</b>	The building coverage of the net area of any site must not exceed 30%	<b>RDIS</b>  Matters of discretion are restricted to: <ul style="list-style-type: none"> <li>a. Compatibility of the built form with the existing or anticipated character of the area.</li> <li>b. Dominance of built form in the surrounding area.</li> <li>c. The extent to which a level of openness around and between buildings is retained.</li> <li>d. Any mitigation measures proposed which reduce the adverse effects of the breach.</li> </ul>
<b><u>Precinct 1 &amp; 4</u></b>	The building coverage of the net area of any site must not exceed 40%.	
<b>Precinct 2</b>	The building coverage of the net area of any site must not exceed 15%.	
<b>Precinct 3</b>	The building coverage of the net area of any site must not exceed 10%.	

**Subdivision Standards**

<b>SUB-S1</b>	<b>Density</b>	<b>Activity status where compliance is not achieved:</b>
<b><u>Large Lot Residential Zone – Precinct 4</u></b>	<u>9. The minimum size of any allotment shall be no less than 400m<sup>2</sup> with an average across the Precinct of 1000m<sup>2</sup>.</u>	<b><u>NC</u></b>

# Annexure C

## Partially Operative Regional Policy Statement for Otago 2019 objectives and 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.

**Objective 5.3** – Sufficient land is managed and protected for economic production; and

**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.

### **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

#### **Policy 4.5.1**

Providing for urban growth and development

Provide for urban growth and development in a strategic and coordinated 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 4.5.2**

Integrating infrastructure with land use

Achieve the strategic integration of infrastructure with land use, by undertaking all of the following:

- a) Recognising and providing for the functional needs of infrastructure;
- b) Locating and designing infrastructure to take into account all of the following:
  - i. Actual and reasonably foreseeable land use change;
  - ii. The current population and projected demographic changes;
  - iii. Actual and reasonably foreseeable change in supply of, and demand for, infrastructure services;
  - iv. Natural and physical resource constraints;
  - v. Effects on the values of natural and physical resources;
  - vi. Co-dependence with other infrastructure;
  - vii. The effects of climate change on the long-term viability of that infrastructure;
  - viii. Natural hazard risk.
- c) Coordinating the design and development of infrastructure with land use change in growth and redevelopment planning.

# Annexure D

## Relevant CDDP and PC19 objectives and policies

### Operative Central Otago District Plan

<b>Section 6 – Urban Areas</b>
<b>6.3.1 Objective</b> - Needs of People and Communities To promote the sustainable management of the urban areas in order to: (a) Enable the people and communities of the district to provide for their social, economic and cultural wellbeing and their health and safety; and (b) Meet the present and reasonably foreseeable needs of these people and communities
<b>6.3.2 Objective</b> - Amenity Values 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.
<b>6.3.3 Objective</b> - Adverse Effects on Natural and Physical Resources To avoid, remedy or mitigate the adverse effects of urban areas on the natural and physical resources of the District.
<b>6.3.4 Objective</b> - Urban Infrastructure To promote the sustainable management of the District’s urban infrastructure to meet the present and reasonably foreseeable needs of the District’s communities.
<b>6.4.1 Policy</b> - Maintenance of Quality of Life within Urban Areas To maintain and, where practicable, enhance the quality of life for people and communities within the District’s urban areas through: (a) Identifying and providing for a level of amenity which is acceptable to the community; and (b) 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 (c) Recognising that change is inevitable in the use of land to enable the community to provide for its wellbeing.
<b>6.4.2 Policy</b> - Expansion of Urban Areas To enable the expansion of urban areas or urban infrastructure in a manner that avoids, remedies or mitigates adverse effects on: (a) Adjoining rural areas. (b) Outstanding landscape values. (c) The natural character of water bodies and their margins. (d) Heritage values. (e) Sites of cultural importance to Kai Tahu ki Otago. (f) The integrity of existing network utilities and infrastructure, including their safe and efficient operation. (g) The life supporting capacity of land resources. (h) The intrinsic values of areas of significant indigenous vegetation and habitats of significant indigenous fauna.

<b>Section 4 – Rural Resource Area</b>
<b>4.3.1 Objective</b> - Needs of the District’s People and Communities

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.
<b>4.3.7 Objective - Soil Resource</b> To maintain the life-supporting capacity of the District's soil resource to ensure that the needs of present and future generations are met.
<b>4.3.3 Objective - Landscape and Amenity Values</b> 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.
<b>4.4.2 Policy - Landscape and Amenity Values</b>  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: <ul style="list-style-type: none"> <li>(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,</li> <li>(b) Development which is compatible with the surrounding environment including the amenity values of adjoining properties,</li> <li>(c) The ability to adequately dispose of effluent on site,</li> <li>(d) Controlling the generation of noise in back country areas,</li> <li>(e) The location of tree planting, particularly in respect of landscape values, natural features and ecological values,</li> <li>(f) Controlling the spread of wilding trees.</li> <li>(g) 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.</li> </ul>

PC19 Large Lot Residential (as notified)

**Objectives**

**LLRZ-01 Purpose of the Large Lot Residential Zone**

The Large Lot Residential Zone provides primarily for residential living opportunities.

**LLRZ-02 Character and amenity values of the Large Lot Residential Zone**

The Large Lot Residential Zone is a pleasant, low-density living environment, which:

1. contains predominantly low-rise and detached residential units on large lots;
2. maintains a predominance of open space over built form;
3. provides good quality on-site amenity and maintains the anticipated amenity values of adjacent sites; and
4. is well-designed and well-connected into the surrounding area.

**LLRZ-03 Precincts 1, 2 & 3**

The density of development in the Large Lot Residential Precincts recognises and provides for maintenance of the amenity and character resulting from existing or anticipated development in these areas.

**Policies**

**LLRZ-P1 Built Form**

Ensure that development within the Large Lot Residential Zone:

1. provides reasonable levels of privacy, outlook and adequate access to sunlight;
2. provides safe and appropriate access and on-site parking;
3. maintains a high level of spaciousness around buildings and a modest scale and intensity of built form that does not unreasonably dominate adjoining sites;

4. is managed so that relocated buildings are reinstated to an appropriate state of repair within a reasonable timeframe;
5. provides generous usable outdoor living space for residents and for tree and garden planting;
6. maintains the safe and efficient operation of road;
7. mitigates visual effects through screening of storage areas and provision of landscaping; and
8. encourages water efficiency measures.

**LLRZ-P2 Residential activities**

Enable residential activities within a range of residential unit types and sizes.

**LLRZ-P3 Home business**

Provide for home businesses where:

1. they are ancillary to a residential activity;
2. they are consistent the anticipated character, amenity values and purpose of the zone; and
3. the effects of the activity, including its scale, hours of operation, parking and vehicle manoeuvring are compatible with /do not compromise the amenity of adjoining sites.

**LLRZ-P4 Retirement Living**

Provide for a range of retirement living options, including retirement villages, where they are comprehensively planned and:

1. any adverse effects on the residential amenity values of adjoining residential properties and the surrounding area are avoided or mitigated; and
2. the scale, form, composition and design of the village maintains the character and amenity values of the surrounding area; and
3. they are designed to provide safe, secure, attractive, convenient, and comfortable living conditions for residents, with good on-site amenity and facilities; and
4. any parking and vehicle manoeuvring provided on-site is appropriately designed; and
5. road safety and efficiency is maintained; and
6. they are well-connected to commercial areas and community facilities

**LLRZ-P5 Other non-residential activities**

Avoid other non-residential activities and buildings, including the expansion of existing non-residential activities and buildings, unless:

1. any adverse effects of the activity, including noise, do not compromise the anticipated amenity of the surrounding area; and
2. the nature, scale and intensity of the activity is compatible with the anticipated character and qualities of the zone and surrounding area; and
3. the activity is of a nature and scale that meet the needs of the local community and does not undermine the viability of the Business Resource Areas; and
4. the surrounding area retains a predominance of residential activities, and for adjoining properties, a sense of amenity, security and companionship is maintained;
5. any parking and vehicle manoeuvring provided on-site is appropriately designed; and
6. road safety and efficiency is maintained.

**LLRZ-P6 Precinct 1**

Provide for development within Precinct 1 at a density consistent with the existing character of the area.

**LLRZ-P7 Precincts 2 & 3**

Ensure that development within Precincts 2 & 3 maintains a higher level of open space, consistent with the existing character of the area.

**LLRZ-P8 Future Growth Overlay**

Recognise and provide for rezoning of land within the Future Growth Overlay, where:

1. It is demonstrated as necessary to meet anticipated demand; and
2. It is able to be serviced by reticulated water and wastewater networks.

