

DIRECTIONS OF THE CENTRAL OTAGO DISTRICT COUNCIL HEARINGS PANEL

MINUTE 4

INTRODUCTION

Following the conclusion of hearing of submissions on Plan Change 19 to the Central Otago District Plan on Friday 26th May 2023 this minute outlines the Hearings Panel instructions to Council staff and the section 42A report writer.

1. INFRASTRUCTURE

The panel requests that Councils Three Waters Director, Ms Muir, provide a review and written response to the following;

- a. Infrastructure evidence received from Mr Mark Cruden Rowan and John Kletsvel (#163).
- b. Infrastructure evidence received from Mr Andrew Ford on behalf of S Davies (#147).

2. LEGAL

Several issues have been raised by submitters that the panel considers would benefit from seeking legal advice. The panel directs Council staff to obtain legal advice as indicated below;

2.1 Applicability of NPS-UD to Central Otago

Several submitters have asserted that Central Otago has 'urban environments' as defined in the NPS-UD and consider that the Council should be considered a Tier 3 urban authority.

The panel requests specific legal advice on the following:

- a. Notwithstanding the views of submitters, as noted above it is necessary as part of the PC19 process for the Hearings Panel to be able to determine if Central Otago contains an urban environment and therefore considered Tier 3 urban environment to which the NPS-UD, or is this a matter which the Council itself must determine?
- b. Although no specific time span is included in the definition of "urban environment" in the NPS-UD, in terms of reaching the threshold of 10,000, legal submissions by Chris Fowler on behalf Jones Family Trust and Searell

Family Trust (#82), expressed a view that the timeframes covered in the NPS-UD of up to 30 years should be applied as indicated.

The panel seeks advice on the following:

- a. Legal submissions from Chris Fowler on behalf of Jones Family Trust and Searell Family Trust (#82), in relation to the NPS-UD.

2.2 Interpretation of the National Policy Statement for Highly Productive Land (NPS-HPL)

Two submitters have provided legal submissions on the application of the NPS-HPL, offering an opinion that the provisions that the New Zealand Land Resource Inventory Classification (NZLRIC) for highly productive land under the NPS-UD can cease to be considered LUC 1-3 if 're-mapped' through an interpretation of part of the definition of LUC 1, 2 or 3 in the NPS-UD.

The panel seeks advice on the NPS-HPL aspect of the following opinions:

- a. Legal submissions from Rebecca Wolt on behalf of Lowburn Viticulture Limited (#123).
- b. Legal submissions from Rebecca Wolt on behalf of S Davies (#147).

3. EXPERT EVIDENCE REVIEWS

The panel directs Council staff to obtain peer reviews of the following expert evidence to be uploaded onto Council Let's Talk Platform;

- a. Dr Reece Hill (Soil Agronomy) on behalf of Lowburn Viticulture Limited (#123), in relation to the desktop methodology used to determine an alternative soil classification to the NZLRIC, in the context of the definition of LUC 1, 2, and 3 of the NPS-UD.
- b. Dr Reece Hill (Soil Agronomy) on behalf of S Davies (#147), in relation to the desktop methodology used to determine an alternative soil classification to the NZLRIC, in the context of the definition of LUC 1, 2, and 3 of the NPS-UD.
- c. Mr James Lundy (Urban Design) on behalf of, Rowan and John Klevstul (#163).

4. URBAN DESIGN ADVICE

Several submitters have asked for the changes to site coverage performance standards in the MDZ Zone. The panel requests that staff to obtain urban design advice on design outcomes if site coverage were to be increased from 40% to 45%.

5. ADDITIONAL EVIDENCE SUBMITTED AFTER CLOSE OF HEARING

Following the close of the hearing additional evidence has been received on behalf of four submitters, as outlined below:

- a. Lowburn Viticulture Limited (#132) raised in evidence contributions paid towards an upgrade of the infrastructure that serves Lowburn. The panel indicated at the hearing that they would seek information from staff in relation to contributions paid by the submitter. The following has been received from the submitter in relation to this matter:
 - i) A memorandum on behalf of Lowburn Viticulture Limited (LVL) in relation to contributions paid on RC 160414 and evidence from Mr Henry van der Velden. The panel thanks the submitter for providing the information and requests staff provide a written response to the matters raised.
- b. Mr James Gardner-Hopkins on behalf of Sugarloaf Vineyards Limited (#161), Topp Property Investments Limited 2015 (#162) and John and Rowan Klevstul (#163) was invited by the panel to provide a copy of a High Court Decision referred to in evidence. In response the following has been received:
 - i) A memorandum and copy of High Court decision as discussed in evidence by Mr James Gardner-Hopkins as discussed at the hearing. The information is to be uploaded to the Council Let's Talk Platform.
- c. Sugarloaf Vineyards Limited (#161), was invited by the panel to provide additional graphical material to assist the panel in understanding the site-specific relief sought. In response the following has been received:
 - i) A memorandum from Mr Gardner-Hopkins and additional graphical material has been provided. The information is to be uploaded to the Council Let's Talk Platform.
- d. Submitters Sugarloaf Vineyards Limited (#161), and Central Topp Property Investments Limited (#162) have provided the following:
 - i) Additional expert evidence from Ms Natalie Hampson of Market Economics. The evidence is a review of the high-level Cromwell Yield Assessment completed by Rationale and released with the section 42A report.

The panel has considered the evidence from Ms Hampson and is of the view that while it has been received post hearing, it is important that decisions are made with the best information available to ensure a robust decision-making process.

The panel accepts the report by Ms Hampson and directs Council staff will seek a response from Rationale. The evidence and response from Rationale are to be uploaded to the Council Let's Talk Platform.

- ii) The panel is supportive of discussions between Rationale and Ms Hampson if it would be helpful, provided the discussions and outcomes are documented, identifying areas of agreement and disagreement, and provided to the panel.

6. REPORTING OFFICER RIGHT OF REPLY

- a. The reporting officer in their reply shall identify matters that are outstanding between the officer any submitters that presented the hearing and their final recommendation in relation to those matters.
- b. Where the officers view remains, this can simply be addressed by reference back to the s42A report but should be included in the reply for completeness.
- c. The reply should include a final recommended set of provisions, and maps of any recommended zone changes.
- d. The Panel is supportive of the reporting officer liaising with an expert witness on the drafting of specific provisions that might address their concerns, provided:
 - i. Discussions are initiated by the report writer; and
 - ii. Any discussions with an expert witness is documented, identifying areas of agreement and disagreement.
- e. It is anticipated that the reporting officer may wish to wait for the responses to the directions in this minute before drafting their reply. The officers reply is to be received no later than ten working days following receipt of the responses to this minute.

TIMING

Given the scale and broad effects of the plan change the Panel considers it important to carefully consider the submissions and evidence presented. To allow for the peer reviews and legal advice requested in this minute the Panel requests that staff obtain the information requested by Friday 4th August 2023.

As indicated above, the Panel anticipates the report writer may wish wait for responses to some or all directions before providing their reply. The Panel directs that the reply of the officer will be provided no later than ten working days after the responses to the directions have been received.

CIRCULATION OF MATERIAL

All written material requested by this minute including the reply from the reporting officer will be posted on the CODC's engagement platform www.lets-talk.codc.govt.nz/plan-change-19.

Submitters will be notified when the additional material has been received and is available for viewing.

Neil Gillespie

A handwritten signature in blue ink, appearing to read 'Neil Gillespie', with a stylized flourish at the end.

Central Otago District Council Hearings Panel (Chair)

7 July 2023