

19/82



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

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(Or alternative method of service under [section 352](#) of the Act)

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This is a submission on proposed Plan Change 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

The Submitter, D. J. Jones Family Trust and N.R Searell Family Trust owns the property at 88 Terrace Street Bannockburn legally described as Lot 4 DP 339137 and is held within Record of Title 474127, and the property to the North legally described as Part Section 103 Block I Cromwell SD held in Record of Title OT16B/1179.

The site is located at the terminus of Terrace Street Bannockburn within the Central Otago District, and is zoned Residential Resource Area (4) (**RRA(4)**) in the Operative Central Otago District Plan. The site is affected by a building line restriction overlay (**BLR**) identified on the District Plan Maps, as identified in **Figure 1** below.

The purpose of the RRA(4) Zone, in general terms is to provide for residential activity, and at Bannockburn, at a density of 1500m² minimum lot size while achieving an average lot size of 2000m².

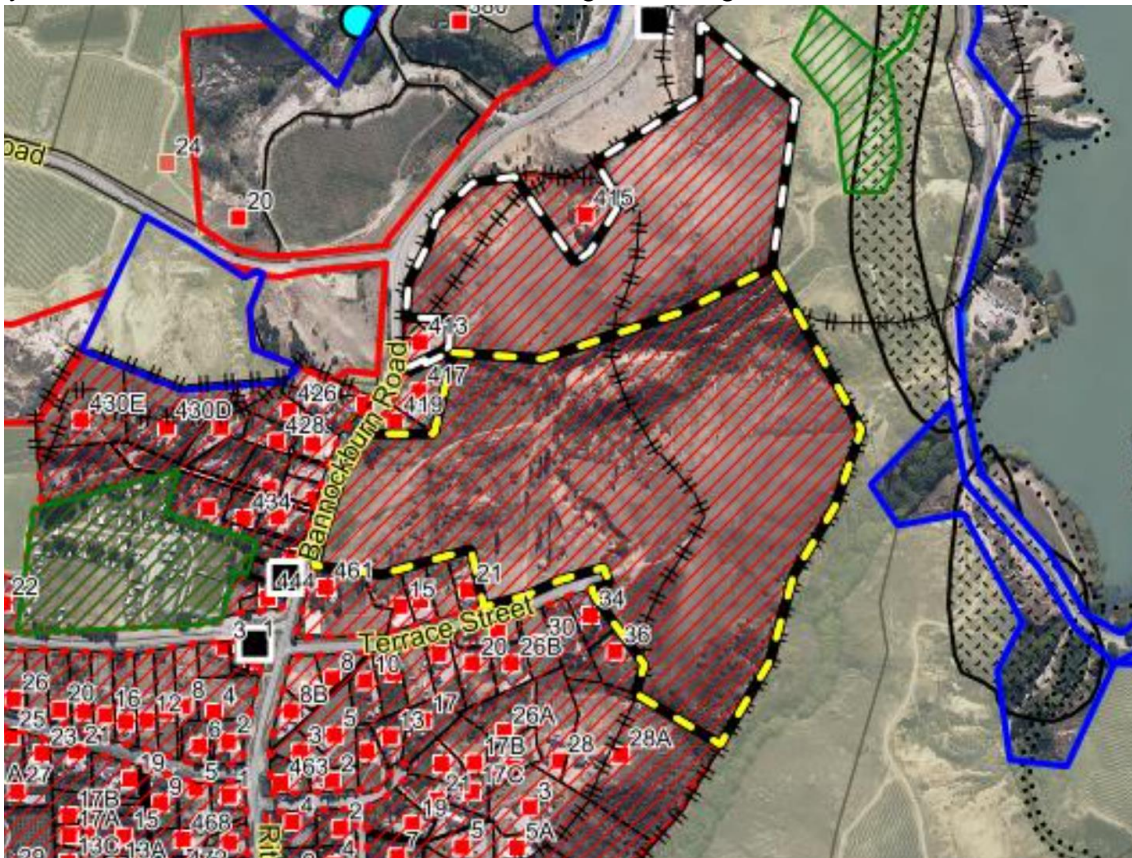


Figure 1. Submission site (yellow and black outline is 88 Terrace Street, and the white and black outline is Part Section 103) illustrating the District Plan Residential zoning (red hatching) affecting Bannockburn township and the BLR is annotated by the black hatched line (CODC Web Maps).

Under PC19, the site is zoned Large Lot Residential, which requires a minimum site size of 2000m² for residential subdivision and development. The building line restriction has been retained, as identified in **Figure 2** below.



Figure 2. PC 19 zoning (yellow), the yellow and black outline is 88 Terrace Street, and the white and black outline is Part Section 103 .

Primary Relief sought

The Submitter requests the following:

1. That the site is rezoned to enable higher densities of residential activity than provided for under the PC19 Large Lot Residential Bannockburn density of 2000m².
2. That the site is rezoned to provide for retail, community facility activities and commercial activities which meet the needs of the community and enhance Bannockburn as a vibrant and interesting place for visitors and the community.
3. That rules LLRZ-S1 and SUB-S1 are amended so that the residential density and subdivision site standards in the Large Lot Residential Zone at Bannockburn is 1000m² minimum and 1500m² average.
4. Such other relief, consequential or otherwise, as may be required to give effect to the intent and purpose of this submission.

Secondary Relief Sought

Without derogating or limiting in any way the primary relief, or further refined or alternative relief which may be provided at a later date, an indicative rezoning plan is appended as **Attachment A**, which identifies the areas of the site where higher densities of residential activity and commercial activity are appropriate.

By way of summary as shown in **Attachment A**, the rezoning comprises:

- A commercial precinct to provide for local convenience retail and community facilities located adjacent to Bannockburn Road;
- An area of Medium Density Residential Zone located adjacent to Bannockburn Road;
- An area of Low Density Residential Zone located within the balance of the site and within the building line restriction area, or the retention of Large Lot Residential with a higher density than 2000m²;

Amendments to the Central Otago District Plan

With derogating or limiting in any way the primary relief, the rezoning and in particular the secondary relief can be facilitated by way of the following amendments to the Central Otago District Plan and the notified PC19 objectives and provisions:

- Amending the District Plan maps to rezone the site from Large Lot Residential to Medium Density Residential Zone, Low Density Residential Zone and to a commercial overlay/precinct as indicated in **Attachment A**.
- Inserting a development area plan/structure plan into the District Plan which will guide future integrated subdivision and urban development at the site.
- 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 the development area plan. The location specific text can include the following matters to identify the specific resources on the Site:
 - Retention of historic character, archaeological sites and sensitive landforms within the site
 - Identifying and implementing key roading connections
 - Pedestrian/cycling connections
 - Opportunities for Indigenous vegetation restoration in gullies

Reasons for the Submission

The Site and rationale for the rezoning Design

The site is an appropriate area for higher densities of urban development than indicated in PC19.

The site is located centrally within the existing settlement of Bannockburn and there is an opportunity the land fronting Bannockburn Road to be utilised for convenience retail, cafes, artisan retail and produce which provides the social and economic wellbeing of the local and wider community while maintaining the existing valued character of Bannockburn.

National Policy Statement Urban Development 2020 (NPSUD)

PC19 and the accompanying section 32 evaluation should be more contemplative of rezoning additional land for housing.

The Council's section 32 evaluation states that the NPSUD does not apply to the Central Otago District and the District Plan because the District does not qualify as an urban environment¹:

Additionally, the Section 32 report also acknowledges that the PC19 is consistent with the direction in the NPSUD which future proofs the plan change if the District becomes an urban environment.

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 PC19 residential zoned areas of Cromwell, Bannockburn, Lowburn and Pisa Moorings are more likely than not fall as an urban environment within the planning period of the PC19, up to the next review of the residential areas of the District Plan.

The NPSUD is more important and has greater relevance than to the extent referred to in the PC19 section 32 evaluation report due to:

- the population growth in the Cromwell area,
- the length of time between plan reviews initiated by the Council and
- because the Cromwell and Vincent Spatial Plans are informative (albeit non-statutory) documents.

It is also noted that a recent Covid-19 Fast Track consent decision where the Expert Consenting Panel stated the following with regards to whether Cromwell qualified as an urban environment²:

[309] We agree with Brookfields that Cromwell is part of a housing and labour market of at least 10,000 people. As we understand it, that housing and labour market is not required to be predominantly urban in character.

[310] Thus, the Panel accepts the position advanced by the Applicant and Brookfields that Cromwell (and adjacent areas identified for future urban zoning) would fall within the meaning of an "urban environment" under the NPS-UD.

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 this National Policy Statement, adopting whatever modifications to the National Policy Statement that are necessary or helpful to enable them to do so.

¹ Council Section 32 report at [78].

² Record Of Decision of The Expert Consenting Panel Under Clause 37 of Schedule 6 To The FTA: Wooing Tree Estate Project. 29 September 2021.

The following objectives and policies of the NPSUD are relevant to PC19 and the rezoning proposal, although acknowledging that they are not a mandatory requirement to be given effect to through the District Plan.

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:*

(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 Council and the District Plan 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.

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;
- 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;
- 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.

Note that in this case the site is not identified in the District Plan as a high valued natural feature or landscape and the proposal does not engage with Section 7(c) and Policy 3.2.6 (nor Policy 3.2.4 for Outstanding Natural Features and Landscapes).

- 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. Notwithstanding this, the rezoning proposal by Submitters finds some support from the Cromwell Spatial Plan as discussed below.

The rezoning proposal is consistent with and will assist PC19 to implement Policy 4.5.1.

Operative Central Otago District Plan

The proposal is consistent with the District Plan, including the following objectives and policies:

Section 6: Urban Areas

6.3.1 *Objective - 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*

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.

While the rezoning proposal is not expansion, it does provide for consolidation of urban development which is consistent with the Spatial Plan in general terms and the intent of Policy 6.4.2.

The rezoning area can be serviced and does not require any significant extension of infrastructure due to the sites location adjacent to an existing urban settlement with reticulated water and wastewater.

The proposed rezoning can be undertaken to provide good amenity for future inhabitants and will maintain amenity values for the wider Bannockburn area. The urban expansion will avoid adverse effects on adjoining rural areas and outstanding landscape values and indigenous biodiversity, and other elements.

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

Despite not being identified in the Cromwell Spatial Plan, sensitively designed higher densities of residential development and small scale retail and commercial activities are appropriate at Bannockburn.

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; and
- (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 PC19 and the District Plan is not required to 'give effect to' the Cromwell Spatial Plan or any other plan endorsed by the Council 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 RPS and the District Plan are required to be given effect to by PC19 and this proposal. The Cromwell Spatial Plan is relevant, but that regard shall be had to it, rather than it needing to be 'given effect to'.

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 PC19 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 rezoning 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 land for increased densities of residential development, it is considered an appropriate candidate for rezoning for the following reasons:

- The site is located in the centre of Bannockburn 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, and can be managed to maintain the values sought to be managed by the building line restriction affecting the site.

The Spatial Plan emphasises the need to provide for increased growth in the Basin, outlining areas in which growth will be prioritised. The residential areas prioritised for development and associated plan changes are likely to be in the Cromwell town centre. Even so, the Spatial Plan also contemplates some changes for Bannockburn

Development in Bannockburn

- The key moves identified for Bannockburn are³:
 - Coordinate, over time, a local convenience offering to the Main Street of Bannockburn,
 - Support growth of housing balanced with the current section sizes and retaining the character of the local streets,
 - Undertaken strategic studies in to establish the best location for a town centre green space.

A second element of the Spatial Plan relevant to Bannockburn is the vision to develop more convenience and retail stores along the main street.

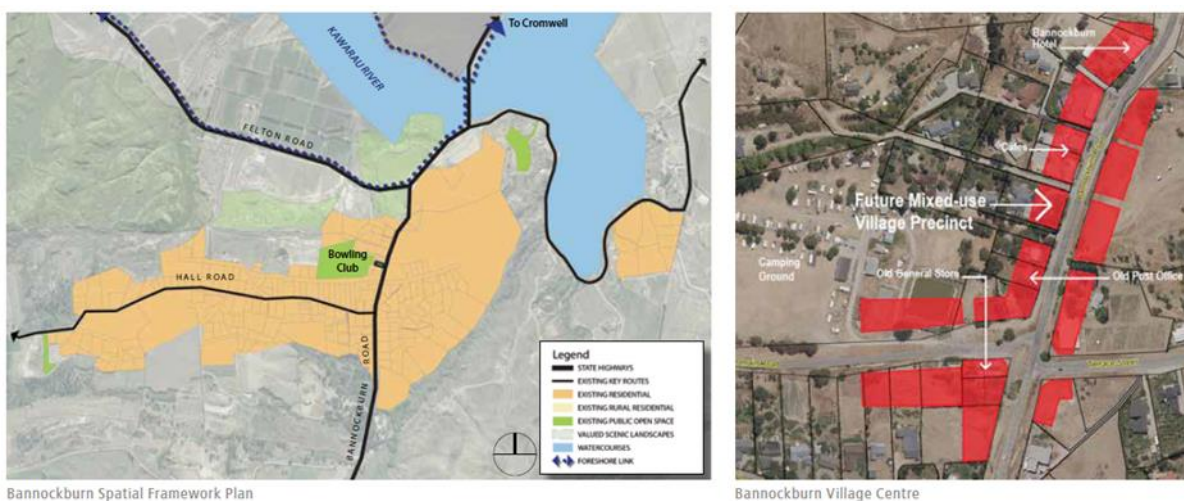


Figure 3. Figures from Spatial Plan showing current and potential locations for retail or mixed use sites (at page 44)

³ See page 44

Figure 3 shows that part of the area identified for retail or mixed use is located within the site.

PC 19 Residential density rules at Bannockburn

The Submitter considers that a higher density of residential development is appropriate at Bannockburn than the minimum lot size of 2000m² applied through PC19.

Medium Density and small scale commercial activities (i.e. an overlay or precinct of the Medium Density Residential Zone) can be appropriately managed by the PC19 rule framework for development in the Medium Density Residential Zone which requires that development considers the Council's proposed residential design guidelines and guidelines for comprehensive residential development.

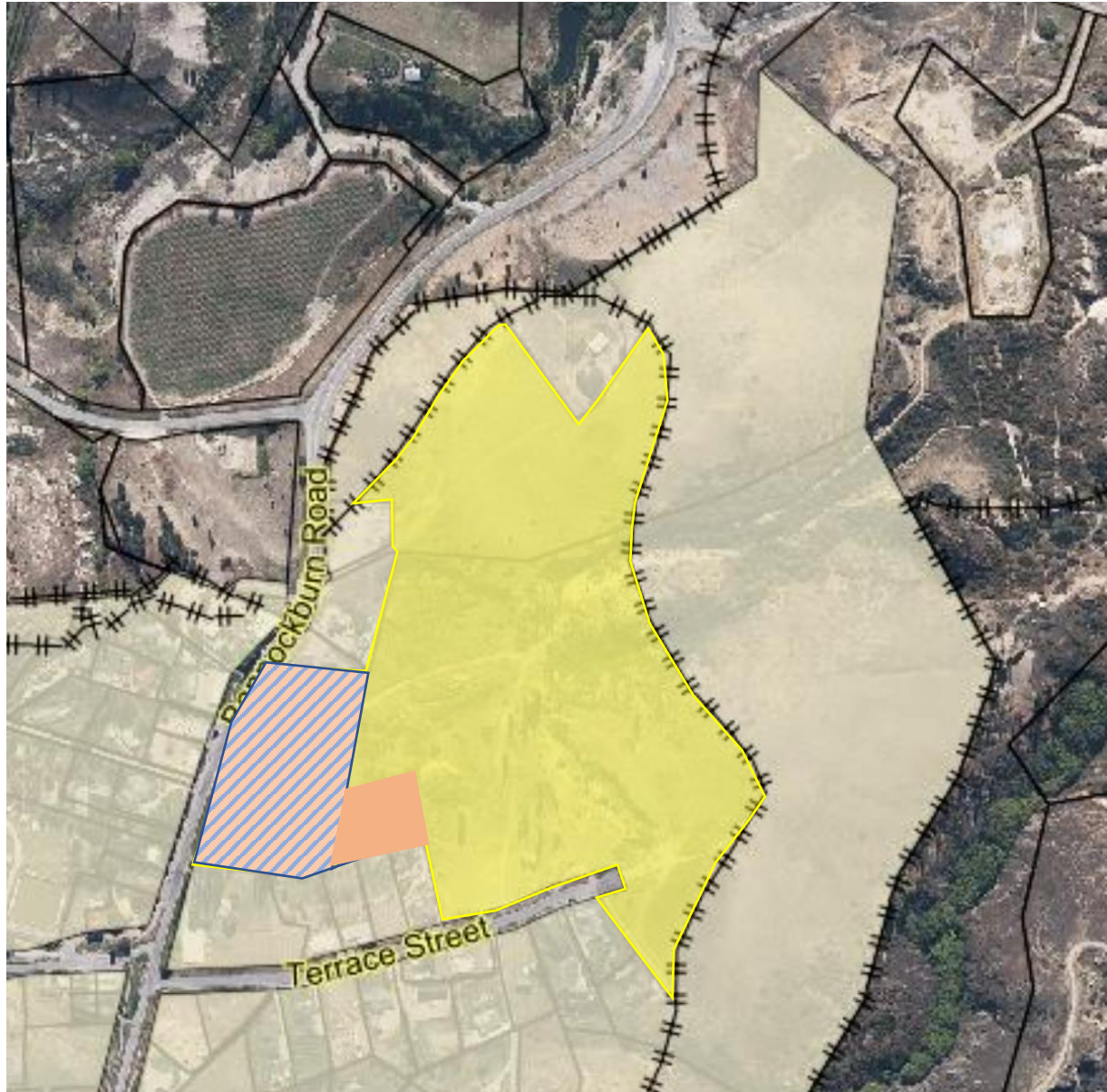
For the Bannockburn Large Lot Residential Zone, a minimum lot size of 1000m² with an average of 1500m² will provide for greater flexibility in subdivision design, greater efficiencies in terms of servicing and infrastructure while still providing large lot spacious settlement pattern with sufficient room on site for amenity plantings and setback and buffers between dwellings. The higher density would be unlikely to have adverse effects on existing areas of Bannockburn because properties already developed would not be able to be subdivided further. However, the opportunity exists for vacant sites/greenfield subdivision areas to be developed to higher densities while still maintaining the character of Bannockburn.

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

ATTACHMENT A: Indicative Rezoning Plan



ATTACHMENT A: Indicative Rezoning Plan

	<p>Low Density Residential 500m² or Large Lot Residential at a density in the order of 1000m² minimum and 1500m² average.</p>		
	<p>Medium Density Residential Commercial Precinct Area identified is 80m depth to allow two rows of lots with a 15m wide access. The area is Approximately 1.8ha area including Commercial Precinct.</p>		<p>Medium Density Residential 200m² minimum lot size.</p>