



# TOWNPLANNING GROUP

27 February 2024

Our Ref: 2676-21

Kirstyn Royce  
Planning Consultant  
Central Otago District Council

VIA EMAIL: Kirstyn Royce <kirstyn@planningsouth.nz>

Dear Kirstyn,

## **RESPONSE TO FURTHER INFORMATION REQUEST – RC 230398: 88 TERRACE STREET BANNOCKBURN**

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This letter is in response to your email dated 7<sup>th</sup> February 2024 in which further information was requested (RFI) in relation to the activity. We respond to the various points raised in turn and have repeated each information request below for clarity (in italics).

1. *Please confirm whether the applicant is withdrawing RC190154?*

### **Response:**

Yes, resource consent application RC190154 will be withdrawn. A separate email will be sent to confirm.

2. *Earthworks are an assessment matter for restricted discretionary subdivisions and the effects of earthworks on heritage are a relevant consideration for this application. Please provide details of any further consultation with Heritage New Zealand Pouhere Taonga. Notably, the HIA submitted with the application states there would be merit in renewed consultation and an invitation to revisit the project site prior to engaging in the archaeological authority process, and notes that HNZPT are an affected party in the application. The HIA advice contradicts the assessment made under s95B. The application also notes that in terms of Section 6 matters, the historic heritage values on the site will be protected. However, the HIA at Table 9 identifies that there will be some destruction of historic heritage features. There may also be the potential for waste and stormwater services into the CODC system in Pennyweights Gully. [Note: Given Section 6(f) matters and the HIA advice, it is*

*anticipated that HNZPT would be treated as an affected party or be served notice of application (if notified)].*

**Response:**

The Heritage Impact Assessment (**HIA**) in Attachment C of the Application identified that Heritage NZ staff have visited the site with Matthew Sole from Kopuaiti Consulting, refer to page 51 and 'HNZ site visit' which was undertaken in February 2021. As you have identified, Page 32 of the HIA notes that '*renewed consultation would have merit, noting that due to staff changes within HNZ there would be merit in renewed consultation and an invitation to revisit the project site prior to engaging in the archaeological authority process, noting they are an affected party in this RC application and will receive this HIA*'.

Following the work to complete and lodge the resource consent application with the Council, it is anticipated that Mr Sole on behalf of the Applicant will contact HNZPT staff to undertake consultation prior to filing the application for authority with NZHPT.

It is noted that NZHPT's submission on the previous application RC190154 supported the proposal providing conditions of consent were included which required an archaeological authority be obtained. The NZHPT submission acknowledged that the applicant has undertaken consultation with Heritage New Zealand, that the majority of the identified archaeological sites are proposed to be avoided or adaptively reused through the development. Heritage New Zealand has indicated to the applicant where the minor modification of some archaeological features would be acceptable should an Archaeological Authority be granted.

It is considered that the current proposal has similar outcomes to the previous, and we anticipate HNZ's response to the proposal to be similar to that previously submitted,

While obtaining an archaeological authority is a separate approval process required by the Heritage New Zealand Pouhere Taonga Act 2014, the Applicant acknowledges that NZHPT would be considered an affected person through this resource consent.

- Please provide details of any consultation with Kā Rūnaka in respect of any potential cultural values associated with the site.*

**Response:**

No Consultation has been undertaken with iwi to date. Given the comments in (2) above, it is anticipated that iwi may be considered an affected person. The Applicant intends to consult with iwi. However, that consultation is not considered to require processing of the application to be delayed.

- Please confirm the on-going ownership/management of Lot 51 [Note: The services report suggests that this may be vested with Council].*



**Response:**

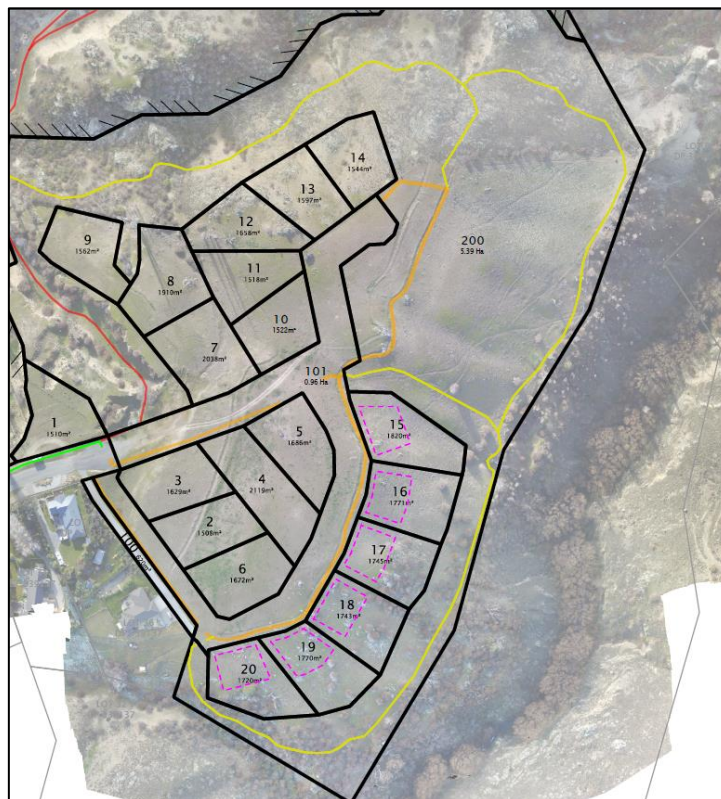
Lot 51 is a balance lot (as stated in section 3.2.5 of the AEE) and will for the time being retain in ownership of the Applicant's.

Lot 51 is not sought to be vested however, the Applicant would be open to discussions with Council if it was identified by them to prefer Lot 51 is vested.

5. *Please provide details of the discussion held with Council officers in 2022 and early 2023 regarding future management of Lots 30 and 40 [and 51].*

**Response:**

Attached is communication between Mr Chris Fowler for the Applicants, and the Council's Parks Officer Mr Gordon Bailey dated 14 June 2023. The communication refers to the Applicant's request in December 2022 for a 5.39ha area of land which included walkways to be vested as reserve shown as Lot 200 in Figure 1 below, with this offer not supported by Mr Bailey.



**Figure 1.** A former subdivision option which included a 5.39ha area of land for vesting as reserve (Lot 200).

Subsequently the Applicant proposed a much reduced recreation reserve / lookout within Lot 30 of the present proposal.

The latter part of the attached communication contains an email dated 24 August 2023 where Mr Bailey confirmed support for the reduced reserve area which is shown in the proposed plan of subdivision at Lot 30.

6. *Please confirm any discussions with CODC engineering regarding the servicing capacity for the site.*

**Response:**

No pre-application discussion with specific regard to the servicing capacity has been undertaken. The subject site is located within the “Cromwell water supply and wastewater – scheme boundary” indicating that adequate network capacity is available.

The development is practically feasible to service and we anticipate these matters to be finalised during the Engineering Approval process.

7. *The RMM report finds the breach of the BLR will contribute to adverse effects, ranging from low-moderate (minor) to moderate (more than minor) and that adverse effects from viewpoints (3-8) in this area range from low-moderate (minor) to moderate (more than minor). The application also identifies that in terms of the heritage landscape values, the proposal will have a minor to moderate effect. I also note that the application suggests that the landscape effects of the proposal are somewhat mitigated because of the underlying zoning which anticipates residential development in this area. However, I am unsure that the same argument can be held for development within the BLR. Please confirm that the assumption that residential development is anticipated within this area applies to development with the BLRs. [Note: The RMM report assesses that visual effects from certain views have the potential to be moderate (more than minor), which will require the proposal to be publicly notified].*

**Response:**

All of the site is zoned RRA including land within the BLR. Residential development is anticipated in the RRA provided that the effects of such development are assessed as being acceptable, including development within the BLR area.

The adverse effects of the BLR non-compliances are assessed in section 6.2.1 of the AEE.

The assessments in the AEE relating to the nature of the relevant BLR rule, its activity status, related matters of discretion and the policy framework all collectively provide guidance for the consideration of resource consent applications.

8. *Does ENGEO confirm that their report dated 02/12/2021 marked DRAFT is a final copy and able to be relied upon for this application.*

**Response:**

A version of the report with the draft watermark removed is **attached**. Please replace the version lodged and stamped as draft with this version. There are no amendments to the report.



9. Lots 15, 16, 17, and 19 are identified as development risk class 2 and Lot 19 is development risk class 3, setbacks are required for Lot 1 and 9. Lot 13 and 14 also appears to risk class 2 and 3 land. The ENGEO report states that further investigation and analysis may be required to support detailed design and Building Consent (by others) once development plans are further progressed. The application states that CODP Rules 7.3.4(ii) and 4.7.5(ii) are not triggered. However, I note specifically that Rule 7.3.4(ii) states that:

*Any subdivision that involves land that is subject to or potentially subject to the effects of any hazard as identified on the planning maps or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source is a discretionary activity. **Any application under this rule will generally not be notified but is to be accompanied by written comment obtained from a qualified professional that addresses the risk associated with the hazard within the proposed development and any remedial measures necessary to avoid, remedy or mitigate the hazard.***

*In respect of this rule, the ENGEO report establishes that the land is subject to land instability hazards. The provision of the ENGEO report does not mean that the above rule is not triggered rather it proposes mitigation for the hazard which would be assessed as part of the application.*

Furthermore, Rule 4.7.5(ii) states that:

*The erection of any building (excluding buildings and/or structures associated with network utilities) **on any part of a site identified on the planning maps as being subject to a hazard or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source is a non-complying activity.***

*Council's consistent application of this rule is that where any part of a site is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source, then any building on that site (even outside of the defined hazard area) is a non-complying activity. While no buildings are proposed at this time, Council applies a precautionary approach to subdivision applications where the subsequent land use would be a non-complying activity.*

*Please provide an assessment of CODP Rules 7.3.4(ii) and 4.7.5(ii).*

**Response:**

The relevant rules identified are repeated in full and discussed as follows:

*7.3.4 Discretionary Activities*

...

*(ii) Subdivision of Land Subject to Hazards*

*Any subdivision that involves land that is subject to or potentially subject to the effects of any hazard as identified on*

*the planning maps or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source is a discretionary activity. Any application under this rule will generally not be notified but is to be accompanied by written comment obtained from a qualified professional that addresses the risk associated with the hazard within the proposed development and any remedial measures necessary to avoid, remedy or mitigate the hazard.*

Rule 7.3.4(ii) will engage a subdivision application if one of two limbs are met, the first is whether any hazard is identified on the planning maps. In this case, the planning maps do not identify any hazards and this limb is not relevant to the application. The other limb is whether the land is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. The second element of the rule requires a qualitative judgement and is relevant to the activity.

#### 7.3.5 Non-Complying Activities

##### (ii) *Buildings on Land Subject to Hazards*

*The erection of any building (excluding buildings and/or structures associated with network utilities) on any part of a site identified on the planning maps as being subject to a hazard or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source is a non-complying activity.*

Rule 7.3.5(ii) is similar to Rule 7.3.4(ii) except that it is a land use rule. The rule has two qualifying limbs, the first being that the land in question would need to be identified on the planning maps as subject to a hazard, which the site is not. The second limb states; '*is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source*'. The second element of the rule requires a qualitative judgement and is relevant to the activity.

The presence of any natural hazards and a landowner engaging a specialist to better understand building feasibility and recommendations to manage natural hazard risk in itself does not render the site likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. If this logic were applied then every subdivision undertaken in the District would trigger the rule because no site in the District is without the risk of a natural hazard which may potentially result in subsidence or slippage (i.e. ground shaking from an earthquake).

In this case, the ENGEO report confirms that the second limb of Rules 7.3.4(ii) and 7.3.5(ii) are not engaged by the application, as set out in their assessment<sup>1</sup>.

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<sup>1</sup> Application Attachment [D] Project Number 19377.000.001 Geotechnical Investigation Lot 4 Water Race Hill, Bannockburn. Section 6.1.



- Lot 18 - It is not clear that there is significant risk from the geohazard identified, and it is our opinion this hazard will be able to be mitigated through a combination of good engineering practises for hill slope development (Appendix 6) and specific engineering mitigation design.
- Lots 15, 16, 17 and 19 - unlikely to accelerate, worsen or result in material damage to the land, provided good engineering practice for hill slope development (AGS, 2007) is applied (Appendix 6).
- All other Lots - If geotechnical recommendations outlined in following sections are adopted, these lots are not expected to be subject to significant risk from geohazards identified in this report in accordance with the provisions of Section 106 of the Resource Management Act 1991.

The ENGEO assessment has identified and recommended practicable measures which may be deployed at the time of building to ensure that any risk related to the second limb of Rules 7.3.4(ii) and 7.3.5(ii) is appropriately managed. These measures will help ensure that the site is not likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source.

For the above reasons, the ENGEO assessment provides sufficient certainty that the activity complies with Rules 7.3.4(ii) and 7.3.5(ii), and does not require resource consent.

10. *Will fill be reused on site or will fill be brought into the site?*

**Response:**

It is intended to reuse fill on site. It is not anticipated that fill will be required to be brought into the site. Material will be brought onto site as part of the subdivision development (i.e. material for roading construction, and aggregate for backfill of trenching, but we do not infer that you refer to this material as fill).

**Peer review requested pursuant to section 92(1) of the RMA:**

1. *The RMM Landscape assessment refers to the peer review by Consultant Landscape Architect, Ms Yvonne Pfluger for RC190154 and her recommendations. Given the modification of the proposal which takes on board some of Ms Pfluger's recommendations, Council seeks agreement from the applicant for a Landscape peer review by Ms Pfluger of the latest proposal and assessment of landscape effects.*

**Response:** The Applicant agrees to the landscape peer review by Ms Pfluger.



Regards  
Craig Barr



**Item 5: Copy of Communication With CODC Parks Officer.**





## Craig Barr

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**From:** Craig Barr  
**Sent:** Tuesday, 27 February 2024 2:18 pm  
**To:** Craig Barr  
**Subject:** FW: Bannockburn - revised proposal - recreation reserve within lot 30

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**From:** Gordon Bailey <[Gordon.Bailey@codc.govt.nz](mailto:Gordon.Bailey@codc.govt.nz)>  
**Sent:** Thursday, August 24, 2023 3:05 PM  
**To:** Chris Fowler | SAUNDERS & CO <[Chris.Fowler@saunders.co.nz](mailto:Chris.Fowler@saunders.co.nz)>  
**Cc:** Richard Ford <[richard@landpro.co.nz](mailto:richard@landpro.co.nz)>  
**Subject:** RE: Bannockburn - revised proposal - recreation reserve within lot 30

Hi Chris, I had a meeting with Richard on site earlier. I am supportive of what is proposed for reserve space and the additional enhancements outline. I also agree that vehicle barriers of some sort will be required so cars can't access the site.

Cheers  
Gordon

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**From:** Chris Fowler | SAUNDERS & CO <[Chris.Fowler@saunders.co.nz](mailto:Chris.Fowler@saunders.co.nz)>  
**Sent:** Thursday, August 17, 2023 3:53 PM  
**To:** Gordon Bailey <[Gordon.Bailey@codc.govt.nz](mailto:Gordon.Bailey@codc.govt.nz)>  
**Cc:** Richard Ford <[richard@landpro.co.nz](mailto:richard@landpro.co.nz)>  
**Subject:** FW: Bannockburn - revised proposal - recreation reserve within lot 30

You don't often get email from [chris.fowler@saunders.co.nz](mailto:chris.fowler@saunders.co.nz). [Learn why this is important](#)

Hi Gordon

Thanks for your time over the phone earlier today. I understand you plan to visit the site soon and I look forward to your further comments.

Richard Ford, surveyor of LandPro, is part of the project team. He happens to live in Bannockburn has sent the following email which may be of interest-

*I will be working from home in Bannockburn on Monday (with the exception of a site inspection during the early afternoon with CODC), so if Gordon has any particular queries about the proposed locations, I'm only 2 minutes away to meet him on site if required.*

Please feel free to contact Richard direct if this offer is of interest.

Thanks and regards



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**Partner**  
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**From:** Chris Fowler | SAUNDERS & CO

**Sent:** Wednesday, June 14, 2023 5:17 PM

**To:** 'Gordon.Bailey@codc.govt.nz' <[Gordon.Bailey@codc.govt.nz](mailto:Gordon.Bailey@codc.govt.nz)>

**Subject:** Bannockburn - revised proposal - recreation reserve within lot 30

Hi Gordon,

Further to the pre-application meeting between our client and the CODC in December last year, our client has developed a revised proposal, taking into account the feedback provided by CODC officers at that meeting.

#### Revised proposal

By way of update, the Trustees have addressed various issues associated with the proposed subdivision, resulting in the **attached** layout plan. In summary, the revised layout plan provides as follows:

- Lots 1-20: residential.
- Lot 30: proposed recreation reserve/lookout.
- Lot 40: the Trust will retain ownership of lot 40 at least until all conditions of consent are implemented for lot 40 and the subdivision generally.
- Lot 50: large balance lot to be developed in the future.
- Lot 51: additional balance lot containing infrastructure which may be transferred to CODC when lot 51 is developed.

#### Lot 30 – proposed recreation reserve/lookout

A feature of the reviewed proposal is a proposed recreation reserve/lookout within Lot 30 as shown on the attached plan. The Trust proposes to transfer this Lot to the Council as local purpose reserve (or similar). Lot 30 contains several attributes that make it well suited for a recreation reserve including:

- The land is relatively flat and suitable for passive recreation.
- Commanding views toward Bannockburn Inlet, Sheppard's Creek, Revells Gully, Slaughter Yard Hill and the land beyond these areas.
- Presence of heritage water races, one of which is to be repurposed as a pedestrian path that connects with the proposed pedestrian path through Lot 100.
- The land is the start/termination point for a walkway through lot 40

The Trust propose to install an interpretation panel within Lot 30, providing details of the land and features that can be viewed from Lot 30 and the heritage values both within and nearby Lot 30.

In addition, the Trust would consider locating rocks within Lot 30 to provide rough seating and a physical barrier to vehicles as appropriate.

Can you please consider the above and let me have the Council's response to this proposal.

Regards



**Chris Fowler**

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