

2841112780
RC230179

29 August 2025

TKO Properties Limited
C/- Morgan Shepard
PO Box 1467
Queenstown 9348

Via email

Dear TKO Properties Limited

Decision Notification: RC 230179 – TKO Properties Limited – Lakefront Terrace, Bendigo

I enclose an updated copy of the Council's decision on the above application as required by sections 114(1) and 133A of the Resource Management Act 1991 that corrects typographical errors in the original decision.

I also draw your attention to Section 120 of the Act which provides for the right to appeal a decision, or part of a decision, under certain circumstances. Please note that there is no right of appeal against the whole or any part of a decision to the extent that the decision relates to a boundary activity unless the boundary activity is a non-complying activity.

Appeals must be lodged with the Environment Court and served on the consent authority within 15 working days of notice of the decision being received in accordance with Section 121 of the Resource Management Act 1991.

Yours faithfully



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CENTRAL OTAGO DISTRICT COUNCIL
Decision of the Hearings Panel

APPLICATION	RC 230179
APPLICANT	TKO PROPERTIES LIMITED
ADDRESS	LAKEFRONT TERRACE, BENDIGO
LEGAL DESCRIPTION	LOT 1 DP 561457 (HELD IN RECORD OF TITLE).
ACTIVITY DESCRIPTION	SUBDIVISION CONSENT FOR SUBDIVISION CREATING 29 LOTS WITH BUILDING PLATFORMS AND ONE BALANCE ALLOTMENT AT ROCKY POINT
ACTIVITY STATUS	NON-COMPLYING

1.0 Introduction

1.1 Hearings Panel

- [001] This is the Decision report from the Hearings Panel (the Panel) of the Central Otago District Council (the Council) on the application lodged by TKO Properties Limited (the Applicant) to undertake a subdivision and development of the site located at the southern side of the intersection of Tarras Cromwell Road and Bendigo Loop Road, legally described as Lot 1 DP 596985.
- [002] Mr Gary Rae, an independent RMA hearing commissioner, was duly appointed by the CEO of Council on 11 October 2024 as Acting Chair of the Panel, in the absence of the Panel's regular Chair. The other members of the Panel were Councillor Martin McPherson and Councillor Ian Cooney.

1.2 Description of the proposal and the site

- [003] The application has gone through several iterations. The application as notified was for 33 developable allotments. After the receipt of the initial Section 42A Report (s42A report) by Mr Vincent, which contained a recommendation to reject the application, the application was amended on 29 July 2024, to reduce the number of developable lots to 30. This retained the same general layout but with some modifications, including the addition of a fourth lot along Bendigo Loop Road, and relocating three lots to the valley along the southern boundary of the Development Area. Following the hearing, several further changes were made to remove another allotment, to reduce the scheme to 29 developable lots. Changes were also made to the extent, composition and location of proposed planting areas to account for losses in indigenous species present on the site that would be caused by the proposal.
- [004] In this Decision report we will only address the final version of the application.
- [005] The amended application is described in the Applicant's amended AEE¹, the evidence or Mr Brown tabled at the hearing,² the Applicant's initial right of reply³ and the s42A reports⁴. We adopt those descriptions but for the convenience of readers we provide a summary of the more salient points as follows:

¹ Application for Resource Consent to the Central Otago District Council for TKO Properties Limited, Brown and Company Ltd, 26 July 2024.

² Jeffrey Brown, Statement of Evidence, 4 November 2024

³ Including legal submissions from Rosie Hill and Ben Gresson, and a supplementary statement from Jeffrey Brown, both dated 22 April 2025

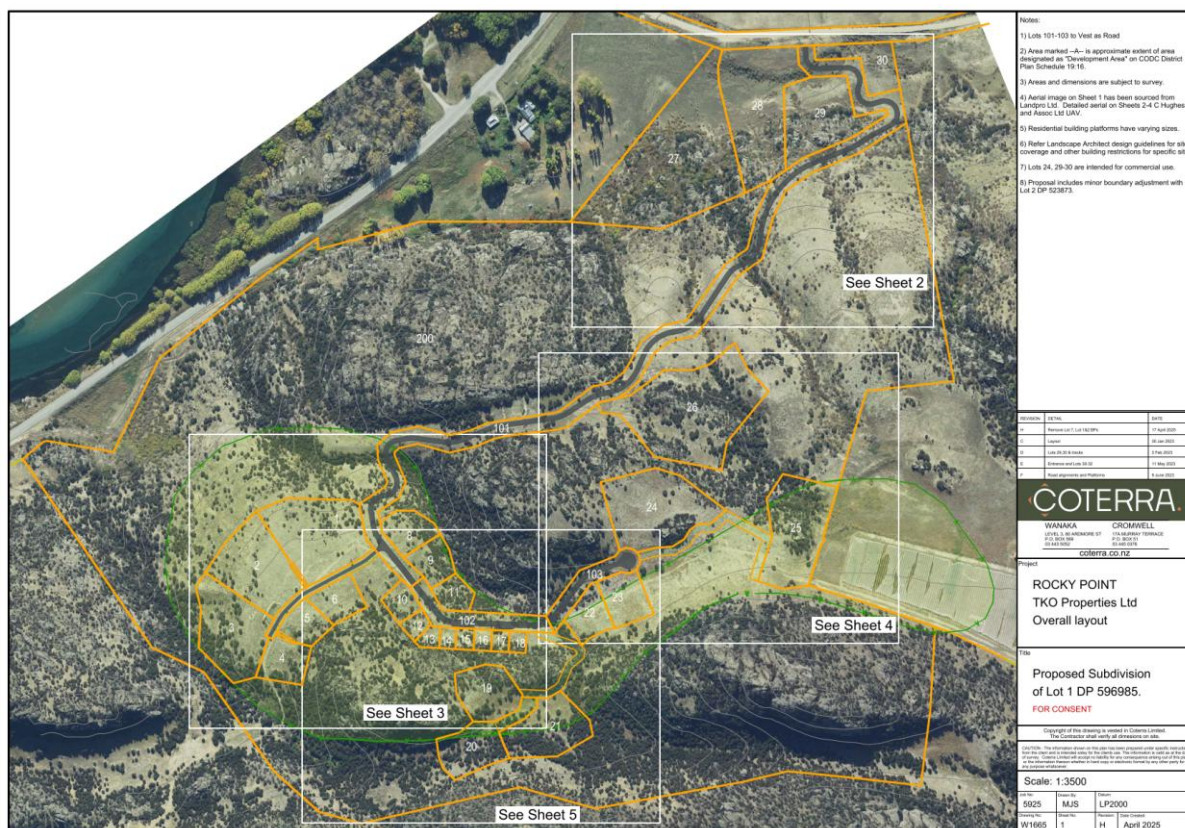
⁴ Mr Vincent, Initial s42A Report of Planning Officer, 28 March 2024 and Supplementary Report of Planning Officer, 27 September 2024.

- (a) Lots 1-6, 8-23⁵ and 25-29 are freehold lots for residential activity and travellers' accommodation. The lots range in size from 479m² to 21,080m². The application includes building platforms on each allotment, along with a suite of design controls that would apply to future residential buildings. We are being asked to consider granting consent for both residential activities and travellers' accommodation on these lots, subject to the design controls;
- (b) Lots 24 and 30 are intended to be used for commercial or communal purposes, with areas of 9,429m² and 3,272m² respectively. We understand that the Applicant has not sought resource consent for any specific uses on these lots. Any use of the land would need to comply with the permitted activity rules that apply to the lots, or a separate resource consent would be required. Building platforms have been proposed for each lot, along with a suite of design controls that would apply to any future buildings on the lots;
- (c) Lot 200 is proposed to be a balance allotment to be managed by a management entity. This lot is proposed to be maintained for ecological and landscape purposes, and would contain several locations for enrichment plantings, locations for maintaining cushionfield habitats, and walking tracks and interpretive material intended to be open for use by the general public;
- (d) Three lots are proposed to be vested in the Council as road, for access to the developable lots;
- (e) Ongoing native planting and protection regimes are proposed, including undertaking enrichment plantings in several locations on proposed Lot 200, biodiversity offset and compensation plantings within an adjacent property at Bendigo Hills (Lot 2 DP 596985) which is also owned by the applicant, and areas where cushionfield habitat are proposed to be maintained;
- (f) All developable lots are proposed to be supplied with potable water from the Chinamans Terrace Scheme via a reticulated network feeding from a new bulk storage facility on Lot 200. The Applicant intends that this scheme would also provide sufficient capacity for firefighting water supply. Where a lot is not close enough to a fire hydrant, on-site water storage would be required. A separate water supply is also proposed to supply a number of wildfire sprinklers located on or around Lots 1-6 and 8-26;
- (g) Wastewater is proposed to be managed through a mixture of on-site disposal where practical, with Lots 4-6 and 8-18 needing to be connected to a reticulated system due to their relatively small size and poor ground conditions for managing wastewater. This system is proposed to pump wastewater up to a treatment plant and a dispersal field to the west of Lot 20. Similarly, stormwater is proposed to be managed using a mixture of on-site and off-site discharge locations; and
- (h) Communal infrastructure and the proposed ecological programmes are proposed to be managed through a management entity set up to facilitate these programmes and infrastructure delivery across the subdivision, manage the common area, and provide oversight of private covenants on the developable lots⁶.

[006] We include a site plan below which shows the site and proposed subdivision layout. The location of the site and a description of the surrounding environment is contained in the AEE. We adopt that description which was not contested by any party in evidence at the hearing.

⁵ Lot 7 was deleted as part of the Applicant's right of reply

⁶ As outlined by Mr Shanon Garden, Statement of Evidence, 4 November 2024
RC 230179: Bendigo Loop Road, Bendigo



Overall subdivision plan for RC230179 (Source: Applicant's initial Right of Reply)

[007] After an iterative process of providing progressively updated draft conditions, the Applicant provided, as part of its response to the Panel's Minute 15, a final suite of proposed conditions of consent. These include a range of development controls, including controls relating to building platform areas, maximum built coverage, maximum height restrictions, earthworks, cladding, roofing, fencing, roading, and landscape planting. The draft conditions also relate to the ecological off-setting and compensation planting proposed in other off-site locations on an adjoining site.

2.0 Process matters

2.1 Written approvals and notification

[008] The original application was received by the Council on 21 June 2023. No written approvals were submitted with the application.

[009] The application was publicly notified on 14 September 2023, with submissions closing on 12 October 2023.

2.2 Scope of application

[010] At several points prior to and after the hearing of the application the proposal went through several rounds of changes. The Panel was satisfied the changes were in direct response to concerns raised in submissions and in the s42A report (and in the associated Council-commissioned ecological peer review reports by Mr Harding). The Panel informed, and invited comment from, the submitters and reporting officers of the amendments made to the application at every step of the process. We advised the parties of the Panel's resolutions that the various changes were all been within the scope of the application as originally notified, and we were not made aware of any concerns from the parties in that regard.

2.3 Submissions received

[011] The Council received 13 submissions within the submission period. Two submissions were neutral and 11 were in opposition.

- [012] We were provided with full copies of all submissions. We record that we have read and have had regard to all the submissions, regardless of whether or not the submitters appeared before us at the hearing.

2.4 Site visit

- [013] We visited the site and the area surrounding the site on the afternoon of Monday 18 November 2024, at the conclusion of the first day of the hearing. With the consent of all parties present, Mr Vincent accompanied us to provide transport and to show us around the site. We confirm that we did not discuss any evidence or merits of the proposal with Mr Vincent present.
- [014] Starting at the site's Bendigo Loop Road entrance, we observed the location of Lots 27-30 and the profile poles erected to show the location of the building platforms. We drove up an existing access track, which we understand would be close to, but not exactly on, the alignment of the proposed main road through the subdivision. We observed the archaeological sites identified by the Applicant, and the locations of Lots 1-6, 8-18, 22-23 and 25, by driving along existing tracks that we understand align closely with proposed subdivisional roads. At various points, we stopped to observe locations beyond the site on the valley floor where there would be line of sight to our positions on the site. We identified the plant species *Raoulia Australis* and *Kanuka*, and Mr Vincent brought to our attention various examples of different small dryland plants, as described in the AEE and in the ecological evidence we had received from the parties as being of particular significance to our consideration of the effects of the proposal. Mr Vincent also pointed out the saline area between Lots 23 and 25 identified by the Applicant.
- [015] After leaving the site we undertook a drive along Bendigo Loop Road to the east of the site, and then along State Highway 8 to the north of the site, so as to view the site in the context of the surrounding landscape.

2.5 The Hearing and process issues

- [016] A hearing of the application was originally set down to commence on Tuesday 23 April 2024. After the Mr Vincent's s42A report had been received the Applicant requested the application be put on hold, and the hearing was postponed for the Applicant to address several matters raised in submissions and in the s42A report. An amended application was lodged on 29 July 2024, a supplementary s42A report and expert evidence were lodged, and a new hearing date was subsequently conducted at the Central District Council Chambers in Alexandra, from Monday 18 November to Wednesday 20 November 2024.
- [017] We heard from the submitters listed in Appendix A. Copies of the evidence and legal submissions that were presented are held by the Council. We do not summarise that material here, but we refer to it in this Decision report where appropriate.
- [018] At the hearing, the Applicant questioned the admissibility of landscape evidence prepared by Ms Di Lucas, on behalf of submitter Ms Shonagh Kenderdine, due to undisclosed conflicts of interest. We decided to hear Ms Lucas' oral presentations, on the understanding that we would later make a decision on whether to allow her evidence. We subsequently determined that her statement should not be admissible as expert evidence due to her undisclosed conflicts of interest.⁷ We also determined that Ms Kate Wardle's tabled letter should not be accepted as expert evidence as, whilst Ms Wardle is a botanist and drylands ecologist, the statement was in support of her own submission. We resolved to consider the matters raised in Ms Lucas' and Ms Wardle's statements in our overall deliberations where appropriate but would not be considering them as expert evidence.
- [019] The hearing was then adjourned for the Applicant to provide its right of reply in writing.⁸ The Panel also directed that Mr Brown provide a supplementary statement of evidence in support of plans tabled at the hearing of an alternative permitted development of the site. We also asked that the right of reply respond to some matters raised by counsel for the submitter Department of Conservation regarding the Conservation Covenant that affects part of the application site.

⁷ Panel Minute 5, 25 November 2024

⁸ Panel Minute 5, 25 November 2024
RC 230179: Bendigo Loop Road, Bendigo

- [020] On the suggestion of the Applicant, expert witness conferencing was arranged between ecological experts from the Applicant, the Council, and the Department of Conservation.⁹ Conferencing was held on 21 March 2025 and a joint witness statement was provided on 26 March 2025. We record that little agreement was reached between the experts involved, as discussed later in our Decision Report.
- [021] Following conferencing, the Applicant was directed to issue its final response to proceedings.¹⁰ This was subsequently received on Friday 11 April 2025. However, the right of reply included some additional changes, including the removal of proposed Lot 7 and changes to the mechanisms proposed to manage ecological effects, in response to some matters the Panel asked the Applicant to address as part of the right of reply. In order to ensure all parties could consider and comment on these changes, we asked the Council reporting officers, and invited submitters, to provide comment on the amended application.¹¹ Responses were received from Mr Vincent and Mr Harding for Council, the Department of Conservation including from its planner Ms Williams and ecologist Mr Ewans, and from submitters Kate Wardle and Cheryl Lucas, on 03 June 2025.
- [022] On 10 June 2025 the Panel, after reviewing all of the material before us, requested independent legal advice on the relevance of the Conservation Covenant that overlays part of the site, the possible application of a permitted baseline, and an interpretation on the relevance of the recent decision *Friends of Conical Hill v Hurunui District Council* [2024] NZEnvC 324 to our consideration of this application.¹² The legal advice was provided on 25th June 2025 and circulated to the parties for their information, and for the applicant to address in its final right of reply.¹³
- [023] The Applicant's final right of reply was received on 14 July 2025 and was circulated to the parties.
- [024] The Panel subsequently issued Minute 14 on 17 July 2025. This asked for clarification on one matter arising from the right of reply regarding the Applicant's proposed compensation planting in Hemlock Valley on the adjoining Bendigo Hills property, and how this could be implemented in light of a recently granted consent to develop those parts of that adjoining site. This issue had been earlier raised by the Department of Conservation and by Ms Wardle¹⁴ and the Panel considered it to be a valid concern that needed to be further addressed.
- [025] The Department of Conservation issued a memorandum on 21 July 2025 requesting that hearing be closed given the substantial time that the hearing process had taken, and emphasising the inherent difficulties arising from the Applicant's response to the issue of off-site planting on the Bendigo Hills site. The Panel responded to the effect that we would await the response from the Applicant to this final matter of clarification¹⁵.
- [026] The Applicant responded on 25 July 2025. After having considered the response we closed the hearing on 28 July 2025, advising the parties that the Panel now had sufficient information to enable us to make our decision¹⁶.
- [027] The Applicant confirmed by e-mail received on 28 July 2025 that it agrees in terms of Section 37A of the RMA to a waiver of the statutory timeframes for the hearing process including for the issue of the Panel's decision. Having considered this, as well as the points made by Department of Conservation as to the length of the hearing process, the Panel resolves under Section 37(1) of the RMA to a waiver of the statutory timeframes, for the reasons set out in our Minute 15 and Minute 16.

⁹ Panel Minute 6, 19 December 2024, Panel Minute 7, 14 February 2025, and Panel Minute 8, 27 February 2025

¹⁰ Panel Minute 9, 3 April 2025.

¹¹ Panel Minute 11, 20 May 2025

¹² Panel Minute 12, 10 June 2025

¹³ Panel Minute 13, 25 June 2025

¹⁴ In response to Minute 11

¹⁵ Minute 15, 22 July 2025

¹⁶ Minute 16, 28 July 2025

3.0 Consents Required

[028] The subject site is located within the Rural Resource Area [2] of the Operative Central Otago District Plan (CODP). The site is subject to Schedule 19.16 Concept Plan – Rocky Point Recreation Zone. The concept plan contains an irregularly shaped area labelled as the ‘Development Area’ in which development is anticipated. The remaining area is identified as a ‘Landscape Protection Area’, which is identified on the District Plan maps as Outstanding Natural Landscape (ONL).

[029] Various parts of the proposed development are located inside and also outside the Development Area. No other overlays or annotations apply to the site.

[030] In his s42A reports, Mr Vincent advised that consent is required under the CODP for the following:

Rule	Why consent is required	Activity Status
Rule 4.7.2.ii.a of the Plan specifies that subdivision is a controlled activity provided the proposed subdivision complies with, among other things, minimum allotment sizes and a concept plan shown in Schedule 19.16 of the Plan. Subdivision inconsistent with the concept plan is a discretionary activity under Rule 4.7.4.iii. A breach of the minimum allotment size becomes a non-complying activity under Rule 4.7.5.iii.	Lots 20, 21, 24 and 26-30 are outside the development zone shown in Schedule 19.16. Lots 4-6, 8-18, 22, 23 and 30 do not comply with the minimum allotment size for the zone.	Non-complying
Rule 4.7.2.i provides for residential activity as a controlled activity provided, among other things, the residential building and any accessory building is not visible from State Highway 8 and Lake Dunstan. Buildings visible from these locations are discretionary activities under Rule 4.7.4.i.	Dwellings other than on Lots 19-23 will be visible from either Lake Dunstan or State Highway 8. These residential activities breach Rule 4.7.2.i.e of the Plan.	Discretionary
Rule 4.7.2.vii provides for accommodation facilities, including travellers’ accommodation for up to 6 fee paying guests, as a controlled activity.	All residential lots are also proposed to be able to be used for travellers’ accommodation. Proposed numbers of guests have not been specified. The capacity of each lot will depend on the size of residential buildings on them. We have assumed that some lots may accommodate space for more than 6 fee paying guests.	Discretionary
Rule 4.7.3.vii states that residential building platforms are a restricted discretionary activity.	Building platforms are proposed for all allotments.	Restricted Discretionary
Rule 4.7.6A.a requires yards of 10m from road boundaries and 25m from internal boundaries for residential buildings	The building platforms on all lots other than on Lot 26 encroach into at least one yard.	Restricted Discretionary
Rule 4.7.6A.b requires a landscaped area of 500m ² be provided on any site occupied by travellers’ accommodation.	Lots 10-18 are intended to be able to be used for traveller’s accommodation, but do not provide adequate space for 500m ² of landscaping.	Restricted Discretionary
Rule 4.7.6G.a requires new lots be either able to be connected to an existing sewer scheme, or that the lots will be capable of disposing of effluent within the site.	Lots 4-6 and 8-18 are not capable of disposing of wastewater within their boundaries. A new private reticulated wastewater network is proposed to treat and discharge wastewater from these lots.	Restricted Discretionary
Rule 4.7.4.v provides for tree planting not associated with landscaping in the immediate vicinity of any building in the Rural Resource Area (2) is a discretionary activity	Tree species are proposed in the offsetting and compensation areas, which are not for landscaping purposes and are not in the vicinity of any proposed building location.	Discretionary

- [031] We did not understand any party to be contesting Mr Vincent's assessment of the affected rules, and accordingly we adopt that evidence. We also accept that overall, in accordance with the 'bundling principle', the proposal requires consent as a non-complying activity under the CODP.
- [032] We are satisfied from the planning evidence that there are no regional consents that would be required to be considered at this time as part of this process.

4.0 STATUTORY REQUIREMENTS

- [033] Given the proposal has an overall status as a non-complying activity, the proposal must be considered under sections 104, 104B and 104D of the Resource Management Act 1991 (RMA).
- [034] Section 104D creates two gateway tests for non-complying activities. We may only use our discretion under Sections 104 and 104B if we are satisfied that the proposal will either have minor effects on the environment, or that the proposal will be consistent with the objectives and policies of the District Plan. If the proposal fails both gateway tests, we must decline the consent.
- [035] Section 104B enables us to grant or refuse consent to a non-complying activity and if granted, to impose conditions on the consent. Section 104(1) of the RMA outlines the matters that we must have regard to when making our decision. The following sections address these matters, and our determination is made at the end of this Decision report.

4.1 Effects assessment

4.1.1 Structure and Approach

- [036] We have focused our assessment of effects on the key issues in contention between the parties, based generally upon the topics outlined in the s42A report. For completeness we also provide a summary of the issues not in contention, concluding with positive effects. We start with a discussion of the permitted baseline concept.

4.1.2 Permitted baseline

- [037] When forming an opinion for the purposes of section 104(1)(a) of the RMA a consent authority may disregard an adverse effect of an activity on the environment if a national environmental standard or a plan permits an activity with that effect.¹⁷ This is of particular relevance here, as it is clear from the planning evidence that activities such as farming, earthworks, and vegetation clearance could all be undertaken as permitted activities on the site, and these could in turn have significant effects on ecological values.
- [038] Counsel for the Applicant, Ms Hill, advised us that the case *Lyttleton Harbour Landscape Protection Association Incorporate v Christchurch City Council (Env't Court Decision C055/2006)* provides some guidance on when a baseline may not be appropriate to apply, where the:
- (a) Baseline claimed by the applicant is fanciful or not credible;
 - (b) Application of the baseline would be inconsistent with Part 2 of the RMA;
 - (c) Permitted activity with which the proposal might be compared as to adverse effect is nevertheless so different in kind and purpose within the plan's framework that the permitted baseline ought not be invoked; or
 - (d) Application of the baseline would be inconsistent with objectives and policies in the plan.'
- [039] We heard extensive planning evidence and legal submissions from the Council, the Applicant, and Department of Conservation on whether it would be appropriate to apply the permitted baseline in this case. Our conclusions from considering the evidence are:

- (a) We accept from the evidence of Mr Brown that the land could reasonably be developed for alternative permitted activities, and in particular a vineyard, which would have effects on the ecological values of the site which are more pronounced than would be the effects of the current proposal before us. However the proposal involves subdivision and residential activities which if standards are met can normally be assessed as controlled activities. Whilst this is a relevant consideration of the anticipated environment such a comparison is not relevant to an assessment of whether the permitted baseline should be applied. We agree with Ms Warnock and Ms Williams, for Department of Conservation, on that point.
- (b) We do not accept the case put by Department of Conservation that the adjacent conservation covenanted land is relevant when considering the permitted baseline. Whilst the CODP recognises this as a method for controlling the removal of vegetation, the removal of vegetation is not controlled by a rule in the plan (i.e. it does not expressly prevent vegetation clearance) or by a National Environmental Standard as set out in section 104(2). We accept the legal submissions of Ms Hill, and the planning evidence of Mr Brown, on this point.
- (c) Mr Vincent's evidence in his supplementary s42A report was that it is not appropriate to apply a permitted baseline because the primary activities proposed here (i.e. subdivision, residential activities or travellers' accommodation) are not permitted activities in the Rural Resource Area (2) zone, and therefore the effects of the proposal are not directly comparable to the permitted activities. We agree with Ms Hill who argued that it is not a comparison of the activities that should be undertaken, but rather a comparison of the effects of those activities. We consider that Mr Brown's evidence has properly addressed those effects.
- (d) We acknowledge the point made by Ms Hill that the effects of this proposal on the vegetation and ecology of the site cannot be said to be inconsistent with the objectives and policies of the CODP, for the simple reason that rules permit the removal of vegetation. Ms Hill also noted that to not apply the permitted baseline in this instance could have the perverse outcome of encouraging landowners and future applicants on land affected by the same rules as this to place their proposals in the best possible light by first removing the vegetation (as is permitted under the CODP) before making their applications for subdivision and development on that land.
- (e) However, on balance, overall we agree with Ms Warnock's point, regarding the age of the CODP, and in particular that the various s6(c) provisions have not been reviewed since the Plan's inception. Also, as noted in Ms Macdonald's independent legal advice to the Panel, a five-year review contemplated by the CODP to ensure s6(c) matters are adequately addressed on freehold land has not yet been instigated. Ms Warnock, based on the planning evidence of Ms Williams, submitted it is likely the vegetation clearance exemption rule does not give effect to the higher order planning instruments and Part 2 of the RMA.

[040] Overall, the key consideration for the Panel is the age of the district plan. We understand the subdivision and residential activity provisions of the Rural Resource Area (2) were first notified in 1998 and were not changed as a result of the review of the wider rural chapter of the plan in 2010 under Plan Change 5. We do not feel we can be confident that the vegetation clearance provisions are now entirely consistent with Part 2 of the Act or the NPS-IB. For that reason the Panel prefers in this instance to not apply a permitted baseline consideration to the effects of the proposal on Threatened and At Risk species. The Applicant has provided extensive evidence to address the effects that would arise from its development, and we prefer to assess that evidence without 'disregarding' any effects arising from permitted activities on the site.

[041] However, we agree with the Applicant that the adverse effects should be assessed in the context of the planning framework in the CODP. Most notably the site contains a 'Development Area' shown in Schedule 19.16 (Concept Plan – Rocky Point Recreation Zone). This enables subdivision and residential development to be assessed as a controlled activity subject to certain standards being met. We refer to the planning evidence of Mr Brown and Mr Vincent who have assessed the effects of the development in the context of the zoning framework, and we agree with the approach they have taken in that regard.

4.1.3 Ecological effects

- [042] We received extensive legal submissions and evidence, including an expert Joint Witness Statement (JWS), on the ecological effects of the proposal. It is clear to us that the ecological effects are a key determinative aspect of this proposal.
- [043] This location is ecologically significant as it supports an unusually high number of Threatened and At Risk plant species. We understood all experts to agree that even though this site has not been formally mapped or recognised as a Significant Natural Area (SNA) it would nevertheless meet the criteria for an SNA. The main concern of submitters is the further loss, including through fragmentation, of threatened dryland habitat and indigenous species only found in these types of environments, such as *raoulia australis* cushionfield and a range of spring annual species. We also understand the experts to agree that the effects management hierarchy of the National Policy Statement on Indigenous Biodiversity (NPS-IB) is applicable to the adverse effects of the proposal on other indigenous biodiversity values (outside an SNA), as per Clause 3.16.
- [044] As we have noted the Applicant's approach to the ecological effects was firstly to assert that, without this proposal obtaining consent, the site will remain less protected overall in terms of biodiversity and could be far more significantly degraded. However, it brought a substantial amount of evidence to bear on addressing the development's effects on the ecological values of the site including various measures to address those effects.
- [045] From Mr Simon Beale's evidence for the Applicant, the overall development will affect an area of 8.27 ha which represents approximately 13% of the property land area (64.3 ha). TKO propose to formally protect the balance of the property (87%) as a Landscape and Vegetation Protection Area (LVP). The LVP would be subject to a condition prohibiting vegetation clearance and imposing other obligations on the management entity and on owners to protect indigenous biodiversity. The LVP will be managed by an owner representative group, as described in the evidence of Mr Shanon Garden. The development will result in the permanent clearance of early successional plant communities, being approximately 1.74 ha. of kānuka shrubland - scrub and 3.95 ha. of cushionfield. These areas represent, in percentage terms, 5.1% and 28.3% respectively of the land area these plant communities occupy at Rocky Point. The magnitude and level of ecological effect of the development, is scored as high to very high in accordance with the EIANZ¹⁸ guidelines. This score reflects the extent of loss of cushionfield communities, in particular, and effects of fragmentation of the development on the cushionfield-kānuka shrubland-scrub mosaic.
- [046] A range of avoidance, remediation and mitigation measures are proposed by the Applicant in accordance with the NPS-IB effects management hierarchy to reduce the magnitude and level of ecological effect. These include avoidance of saline/sodic ecosystems, avoidance of habitats of Nationally Threatened and At Risk spring annuals, avoidance of mature specimens of At Risk plant species, avoidance of high quality lizard habitats, creation of lizard habitat (rock stacks), salvage of lizards, controlling rabbits, goats, ferrets and hedgehogs and controlling invasive weeds.
- [047] The residual adverse effects of the development are proposed to be addressed through biodiversity offset and compensation plantings. This will involve plantings of species representing climax or pre-settlement plant communities local to the Dunstan Ecological District as informed from surveys of nearby benchmark or relic plant communities, from potential ecosystem mapping undertaken by the ORC and from a study of successional processes occurring at Rocky Point. The offset plantings will collectively encompass an area of approximately 6.4 ha, including sites in the adjacent Bendigo Hills Estate as shown in the evidence of Dr Andrew Wells who addressed the offsetting measures.
- [048] The Applicant's evidence was that this will also have the effect of improving the connectivity between, and therefore the resilience of, indigenous biodiversity due to the size and location of the offsetting sites, and the ongoing protection of the remaining on-site biodiversity. The inability to provide 'like for like' offsetting in all instances has resulted in a model to progress towards an idealised or climax state of biodiversity, taking account of vegetation that would have occurred or is expected to occur.
- [049] The offset plantings would be subject to performance metrics (plant growth and survival rates) as informed by programmed monitoring and reporting to ensure healthy self-sustaining plant communities established at the

offset sites. This will require offset actions such as provision of quality eco-sourced plant stock, plant replacement stock, browse protectors, rabbit and goat control, invasive weed control and initially irrigation. The offset actions including the plantings are formalised through an Ecological Monitoring and Management Plan. This includes annual reporting to Council on the monitoring results informing degree of alignment to the performance metrics and any remedial measures required.

- [050] Overall, Mr Beale's evidence concluded that the proposal is consistent with maintaining indigenous biodiversity as it will have no overall reduction in the size and occupancy of indigenous species, and it will result in a net gain in biodiversity values.
- [051] For the submitters the principal concerns on effects on ecological values are addressed mainly in the expert evidence from Department of Conservation by Mr Richard Ewans, and also in the submission of Ms Kate Wardle. Broadly, we understand the main concern is that the proposal will destroy multiple populations of several nationally Threatened and At Risk plant species unaccounted for in the Ecological Impact Assessment (EcIA) survey, without matching mitigations, and this represents an irreversible loss of significant indigenous biodiversity. Mr Ewans' evidence was that the proposal will result in the permanent removal of indigenous cushionfield with no proposal to restore an equivalent area of this ecosystem, and it is not feasible to do so.
- [052] We understood Mr Ewans to accept that the vegetation on this property is in a state of transition, so that a more 'woody' *kanuka* dominated ecosystem would replace some indigenous cushionfield in the medium to long term. However, he considered this potential future transition does not justify the proposal to offset the loss of indigenous cushionfield and supporting Threatened and At Risk plant species with woody revegetation plantings dominated by common (Not Threatened) species. He said this proposal is predicated on simplistic, linear predictions of future site state, overestimates the rate of change and establishment of a 'climax' woody community, and does not meet statutory principles for offsetting. There was also concern that the EcIA survey under-estimates and does not take account of populations and occurrences of Threatened and At Risk plant species within the development areas, which he said were relatively easily found on the Department of Conservation surveys. Mr Ewans considered that even with the current substantial underestimate of indigenous biodiversity values, the proposed mitigations (including offsetting and compensation planting) do not result in the maintenance of indigenous biodiversity or a net biodiversity gain, also noting his concerns that the offsetting sites have not been adequately assessed.
- [053] Mr Vincent, in his supplementary s42A report, and relying on Mr Harding's peer review for Council of the Applicant's ecological evidence, considered the ecological effects of the proposal to be high and not adequately managed in line with the effects management hierarchy of the NPS-IB. Mr Vincent considered that less weight should be given to losses of ecosystem extent where that occurred within the designated Development Area, compared to outside the zone, given the more permissive framework that the CODP applies to subdivision and development within the Development Area. However, overall, he considered the ecological effects outside the development area would be sufficiently high, and unable to be appropriately managed, such that consent should not be granted. The planning witnesses for the applicant (Mr Brown) and for Department of Conservation (Ms Williams) also gave evidence on effects in line with their respective ecology witnesses.
- [054] As noted earlier, the Panel directed expert witness conferencing between the ecologists as an attempt to narrow the areas of difference. The JWS confirmed there was now sufficient information to enable an assessment of the ecological effects of the activity on vegetation and flora. However there was no agreement as to the appropriateness of the revised offset and compensation regime and the Applicant's associated updated conditions. Mr Harding and Mr Ewans also considered there remained insufficient data to determine the effects on lizard habitats.
- [055] The Applicant, through its initial right of reply, made further amendments to the proposal to provide what it described as a more robust biodiversity offset and compensation regime based on further site-specific investigations by Dr Wells and Mr Kelvin Lloyd (from Wildlands Consultancy). It provided additional off-site planting and habitat creation over a larger area than that which is impacted, on-site woody vegetation clearance to maintain cushionfield and the At Risk and Threatened plant habitat, lizard habitat creation, pest plant and animal control, and legal protection for conservation purposes of approximately 90 percent of the

site. The amended proposal also removed one of the larger building lots (Lot 7) to reduce the loss of cushionfield habitat from that area.

- [056] Supplementary planning evidence was provided by Mr Brown concluding that, based on the large body of ecological investigations and reports, the compensation and offset planting approach will have net benefits for the indigenous biodiversity values. He considered this to be consistent with clause 3.16 of the NPS-IB for indigenous biodiversity.
- [057] Responses to the amended proposal and the supplementary evidence were received from Department of Conservation, Ms Wardle, and Ms Cheryl Lucas. As part of Department of Conservation's response, Mr Ewans maintained his opinion that the application still leads to a substantial loss of Threatened and At-risk species and fails to avoid a net loss of indigenous biodiversity.
- [058] For the Council, Mr Harding said that whilst the amended proposal reduces slightly the extent of adverse ecological effects it still does not adequately address the loss and fragmentation of indigenous biodiversity. Mr Vincent, notwithstanding Mr Harding's response, considered the changes to be significant. He said the removal of Lot 7 will significantly reduce the loss of cushionfield habitat and that measure, together with the additional areas where cushionfield habitat would be maintained, is sufficient to manage the ecological effects to the point where from a planning perspective he was now able to support the grant of consent to the proposal.

Findings

- [059] From the evidence it is clear the proposed development will substantially impact the ecological values of the site.
- [060] We agree with the Applicant's witnesses, and with Mr Vincent in his revised recommendation, that when assessing the significance of these effects a holistic approach should be taken to the development of the site. It is appropriate to recognise that development of the total site is a realistic and anticipated outcome, and there are no district plan controls for removal of vegetation from any part of the site¹⁹. This was a key point of difference between the Applicant and Department of Conservation's witnesses, who we understood to be essentially seeking the ultimate protection of ecological values on the site by avoiding development where it coincides with areas of significant vegetation and habitat.
- [061] Notwithstanding this planning context it is appropriate to assess the full effects from development on the ecological values of the site. In that regard it is worth emphasising the Panel has throughout this process responded to the concerns and expert evidence of submitters in opposition by directing further information and assessments on the ecological effects, including mitigation and off-setting measures, and expert witness conferencing. The Applicant has responded by carrying out additional field surveys, preparing further evidence, all resulting in amendments to the proposal to further reduce the scale of development, and to provide additional protection and mitigation measures, in particular for cushionfield habitat and enhanced offset and compensation planting on this site and on adjoining sites.
- [062] Overall, we consider this to now be a robust body of work that has been further refined throughout the process in our view appropriately taking account of concerns raised in expert evidence by Mr Wells, Mr Harding, and in other submissions including by Ms Wardle.
- [063] Our findings on the issues in contention are as follows:
- (a) We accept the evidence of Mr Beale and Mr Brown that the part of the proposal within the Development Area includes sufficient measures to address effects on the ecological values so that the adverse effects are no more than minor.
 - (b) We consider from the Applicant's evidence that the area outside of the Development Area appropriately maintains a large area to be protected from any form of development, through the LVP. Whilst there were

¹⁹ The Panel considers it can place little or no reliance on any protection of vegetation afforded by the Conservation Covenant over part of the site, as addressed in a later section of this Decision report (refer s104(1)(c) - Other matters).

some reservations expressed by submitters and by Mr Vincent as to the mechanism to manage this area, we accept the evidence of Mr Garden based on his experience with other developments that a Management Entity can be established and operated to deliver the outcomes relevant to the LVP (as well as for the offsetting and compensation planting areas). The proposed development of this area avoids significant areas of saline soils, spring annuals, mature specimens of At Risk plant species, and lizard habitats. The final amendments made to the proposal significantly reduce the loss of cushionfield habitat. Whilst Mr Harding retained his concerns that the application would not resolve his concerns at fragmentation, Mr Vincent, in applying the planning context, nevertheless ultimately recommended the grant of consent and we support that approach.

- (c) Despite these measures, we agree with the Department of Conservation witnesses and with Ms Wardle that the proposed offsetting and compensation plantings are key, and these need to be viewed as an integral part of the proposal. Whilst the approach to offsetting was strongly contested, we accept, from the evidence of Mr Beale and Dr Wells, that the cushionfields are an early succession plant that will inevitably be succeeded naturally by higher order species, and it is appropriate that the offsetting response will not simply replicate the current point-in-time situation but will promote a climax/mature vegetation community. The offset planting proposed will enable increased cover and enhancement of indigenous woody vegetation, with species that were formally abundant but now uncommon or locally extinct as worthwhile for the overall ecological health of the site and the wider locality.
- (d) We are satisfied that the offsetting proposals are appropriate and Dr Wells has provided a robust set of measures, including those encapsulated by conditions including implementation and management, monitoring, and reviews which provide sufficient comfort to us that these planting measures will be successful. We are also satisfied with the Applicant's response to our concern, first raised by Department of Conservation and Ms Wardle, that the recently granted variation to a consent on the adjoining Bendigo Hills site need not cause an impediment to the implementation of the offset planting areas on that site²⁰.
- (e) The Panel considers that the offsetting and compensation measures meet the principles in the NPS-IB so that there is no overall net loss in biodiversity (further commentary is provided in a later section of this Decision report on the NPS-IB).

[064] Overall, the Panel considers that in the context outlined above, and with adherence to the conditions of consent, the adverse effects of the amended proposal on indigenous biodiversity values will be no more than minor.

4.1.4 Visual, Landscape and Rural Character effects

[065] The landscape, visual and rural character effects of the proposal are outlined in the application's Landscape Assessment and in the evidence prepared for the applicant by Mr Paddy Baxter. Mr Baxter advised us that he was involved in the development of the Rocky Point Recreation Zone and Landscape Protection Area, and as noted earlier he considered the Development Area is not 'fine-grained' on the land. He said for that reason this proposal has not been designed to fit entirely within the designated Development Area but has been developed as a bespoke response to the constraints of the total site.

[066] Mr Baxter's conclusions, as summarised in Mr Brown's evidence in chief, are as follows:

- (a) The proposed development has been designed so the bulk of the development is contained within the Development Area and where development is proposed within the ONL (within proposed Lots 20, 21, 24, 26 and 27 – 30), the building platforms have been located to reduce or eliminate adverse effects on views to the site and maintain and extend the existing cloak of kanuka;
- (b) Prescriptive design controls have been tailored to minimise the potential visual impact of development against the natural colours and form of the landscape;

²⁰ This is further addressed in Commentary on Conditions.

- (c) Aside from Lots 27 – 30 which adjoin Bendigo Loop Road, a limited number of lots (Lots 24 and 26), will be visible, but barely discernible from State Highway 8, due to distance and proposed design controls;
- (d) Views from the central and western portions of Lake Dunstan will be distant (1.2km – 1.6km) and future dwellings will be barely distinguishable in these views;
- (e) Vast panorama views from the Bendigo Scenic Reserve will include partial visibility of Lot 24 and 25 which will be barely discernible; however the rest of the development will be screened by existing vegetation and landform;
- (f) Lights may be visible at night from outside the site, however the overall potential adverse effects will be low as a result of the design controls that limit the extent of glazing and outdoor lighting;
- (g) The proposal introduces a low level of change into the landscape character, most of which is anticipated within the Rocky Point Recreation Zone;
- (h) Given the considered placement of the proposed building platforms within the ONL, the overall low-density scale of the development and the proposed design controls, the proposal mitigates or avoids adverse landscape and visual amenity effects on the ONL and therefore protects the values of the ONL;
- (i) Additional planting mitigation for Lots 27 – 30 (adjacent to Bendigo Loop Road) as suggested by Mr Vincent will further absorb that development into the landscape; and
- (j) Overall, there is a low level of adverse effects on landscape and visual amenity values.

[067] Several submissions expressed concern at the landscape and visual effects including from Ms S Kenderdine, Ms H Pledger, Ms L Lucas, Mr P Blakely, Ms R Moorhouse, and Central Otago Environmental Society (COES). The key concerns focussed on the proposed development being partly within an ONL, the change of rural character, location and prominence of buildings, ineffective design controls including nighttime lighting effects. Ms Di Lucas presented a statement of evidence on landscape effects which we determined could not be taken as expert evidence (as explained earlier in this Decision report) but which nevertheless raised in our view some valid points which were subsequently considered and responded to in evidence by Mr Baxter and by Mr Vincent. Mr Matthew Sole presented a statement on behalf of COES in which effects on rural character, as well as on the ecological and archaeological effects, were addressed.

[068] In his initial s42A report Mr Vincent said the proposal will result in a significant change in the character of the landscape, taking what is currently a largely undeveloped hillside and set of gullies and introducing paved roads, dwellings and curtilage areas. He did acknowledge however that a significant level of change is anticipated for the landscape through the provisions that apply to the Rural Resource Area (2), subject to limitations, such as avoiding visibility from State Highway 8 and Lake Dunstan, and the design and colour of buildings more generally. His evidence was that this change will not result in significant adverse effects purely on the scale of change from the existing landscape character.

[069] In his supplementary s42A report, Mr Vincent said he was more particularly concerned at the landscape effects of Lots 27-30, and the effects of the lighting of dwellings at night. He advised that, for him to be able to consider the visual, landscape and rural character effects of the proposal to be appropriate, one of the lots in the ONL outside the Development Area, and which would be visible from outside the site, should be deleted. He suggested this might be either Lot 24, or one of Lots 27-30 (which are located along Bendigo Loop Road). He was satisfied that the effects within the Development Area could be managed to acceptable levels through implementing the conditions of consent.²¹

[070] In response, and through its initial right of reply, the Applicant volunteered the removal of Lot 7 and increased the extent of landscaping plantings around Lots 27-30. In his response to Minute 11, Mr Vincent supported these changes. He noted that whilst Lot 7 is inside the Development Area built development on that lot would have been visible from viewpoints around Lake Dunstan to the west of the site, and so its removal will reduce those adverse effects. He further advised that he had softened his approach to assessing the development outside the Development Area noting in particular that the proposed vegetation for screening around Lots 27-30 would now include more taller species than he had initially assumed, further increasing the potential screening. Mr Vincent considered that this would need to be subject to a condition for planting. He confirmed

that, when looking at the proposal as a whole the changes will reduce the visual and landscape effects of the proposal to a point where he considered them appropriate subject to compliance with conditions of consent.

Findings

- [071] The concerns of submitters regarding the landscape, visual and rural character effects of development at Rocky Point are acknowledged. We accept that any form of built development proposed within an ONL needs to be carefully considered. Whilst we were not able to consider Ms Di Lucas' statement as being expert evidence we were nevertheless impressed by its depth of analysis, and in particular the value this land at Rocky Point holds to the local community through the historical context of the site and local area.
- [072] There was considerable discussion at the hearing regarding the proposed conditions of consent, including controls related to building bulk, location, design colour, glazing and lighting standards. However all of the expert landscape and planning evidence we received concluded that the adverse effects are satisfactorily addressed by the bespoke layout and design provisions developed by Mr Baxter. These were further refined during the process to respond to concerns raised by Mr Vincent and also raised in submissions including those outlined in Ms Di Lucas' statement.
- [073] Overall, we consider the amended proposal is an appropriate response to the landscape and character effects and those effects will be no more than minor. The key theme to come through all the expert evidence was that whilst partly in an ONL a large part of the site is also within a Development Area, and the Development Area need not be treated as fine grained. We were satisfied on Mr Baxter's evidence it is appropriate to apply a bespoke approach to designing development with appropriate controls across the wider site in this location.

4.1.5 Effects on Archaeological and Heritage Values

- [074] The application site includes four identified archaeological sites, related to alluvial gold mining and which likely date to pre-1900 activities in the area. Mr Chris Jennings, consultant archaeologist for the Applicant, described the sites as follows, noting the NZAA reference numbers of each site:
- (a) G41/771: An earth bank feature, potentially an animal enclosure, in a degraded condition.
 - (b) G41/772: A stone retaining wall feature in good condition.
 - (c) G41/773: An earth bank feature, potentially a reservoir or animal enclosure, in a degraded condition.
 - (d) G41/774: An area with remnants of tailings, probably indicative of minor gold workings and in poor condition.
- [075] Mr Jennings said that reservoir sites related to alluvial mining are relatively common throughout Central Otago. He said that whilst the proposal would likely include the modification or destruction of G41/771 and G41/773, these are in poor condition, are of low value, and will in any event continue to degrade without intervention. He considered that this would be managed through the archaeological authority process under the Heritage New Zealand Pouhere Taonga Act 2014 (NZHPTA), which requires detailed recording of the sites prior to further development as an appropriate response, thereby protecting the sites "by record". Mr Jennings also noted the proposed conditions of consent will require a discovery protocol and earthworks monitoring requirements so that any subsurface archaeological evidence, such as features or artefacts, are appropriately recorded.
- [076] Mr Matthew Sole, speaking on behalf of COES, noted that Mr Jennings' assessment does not cover the effects of the subdivision on sites G41/297 and G41/19 and said the proposed recreational track network was not subject to an archaeological survey and that it should be archaeologically assessed for effects on remaining archaeological values.
- [077] Mr Jennings, in response, confirmed that those sites had not been considered in the archaeological assessment, as they are located outside the boundaries of the proposed subdivision and are not likely to be affected by any related works. He said that the recreational track was not specifically assessed during fieldwork. It was added in a later revision to the proposed development plan, but the entire area was subject to GIS analysis, and parts of the recreational track network were either incidentally assessed or unable to be accessed due to vegetation. He said that whilst the remainder of the network could be further assessed

vegetation clearance would be required to properly inspect the entire proposed track network, and he therefore preferred that archaeological monitoring is undertaken during the construction of the tracks.

- [078] Dr Schmidt, Senior Heritage Advisor for Department of Conservation, considered the archaeological heritage on the property is regionally significant. He gave examples of where gold mining reservoirs and related water races in the Clutha Valley have been progressively destroyed predominantly through ploughing, dairy conversion and viticulture. Dr Schmidt further advised that he had inspected the site and had identified some additional archaeological features which were part of a network of water control related to gold mining in the area, and they had not been investigated by the Applicant.
- [079] Mr Jennings confirmed this and said that some of these features are outside the proposed building lots. Dr Schmidt proposed that the reservoir sites G41/771 and G41/773 could be made features of the development and could be further protected by being planted with shallow-rooted vegetation intended to prevent harm to the features. Mr Jennings accepted this but noted that whilst establishing vegetation may preserve and stabilise the sites, this will further obscure the features. He said that the sites are in such a deteriorated state that they are likely to be indistinguishable from general planting and landscaping and will require additional management to defend against subsequent modification.
- [080] Mr Vincent, in his supplementary s42A report said his initial assessment that the archaeological effects of the proposal would not be significant had not changed. He also noted that changes had been made in the amended proposal to avoid roads and accesses which would have resulted in the need to destroy item G41/771, and the Panel notes that following questions and responses at the hearing the recommended conditions provided by the Applicant were amended to require that the access road avoids G41/733. Mr Vincent noted that the other identified and potential sites are located away from likely development areas. Mr Vincent considered that where development, such as a walking track, was shown in a way that it would disturb a site, there would likely be enough options, such as changing the route of a track, that effects on these items would be able to be managed. Mr Vincent concluded that this, along with an accidental discovery protocol, and the protections offered by HNZPTA, would be sufficient to manage adverse effects on the heritage and archaeological values of the site to a point where they would be minor.

Findings

- [081] The Panel accepts Dr Schmidt's evidence that the heritage items on the site are likely to be regionally significant in the context of historical alluvial gold mining in the area. However, we also accept the evidence of Mr Jennings, as confirmed in our own site visit, that the heritage items on the site are not in good condition and are likely to continue to degrade without this proposal proceeding.
- [082] The evidence was that only two sites would be directly affected by the proposed development. However changes made to the alignment of access roads and changes now made to the proposed conditions will now avoid or protect those sites. We are satisfied that this, and any other potential effects on sites that may be discovered including along the proposed recreational tracks, can be further assessed through the HNZPTA processes if an archaeological authority is required, and through discovery protocols. Any sites within the conservation covenant area would also require the approval of Department of Conservation to be modified or destroyed, through a separate process.
- [083] Overall, we find that any potential adverse effects on archaeological and heritage values will be minor or less than minor.

4.1.6 Effects on Cultural Values

- [084] A tabled letter was submitted by Aukaha in support of its submission. We understood Aukaha's wider concerns relate to the cultural landscape of the site and the wider area, and the increased number of subdivisions, particularly the potential adverse effects on the Mata-au/Clutha River catchment. More site-specific concerns related to the on-site wastewater and stormwater treatments, particularly due to the soil conditions on site.
- [085] In relation to the wider concerns, the planning evidence of Mr Brown for the Applicant was to acknowledge that subdivisions have been occurring in rural areas, but that in this instance the proposal is within a zone

which has a specific, bespoke suite of provisions that enable a level of development. His evidence was that while the proposal is not fully compliant with the zone provisions, a complying development would change the landscape and this is the appropriate starting point for assessment.

- [086] In response to the site specific concerns Mr Brown's evidence was that a fully reticulated treatment system is not feasible or necessary, and the methods of stormwater and wastewater management discussed by Ms Rhynd and Mr Sternberg for the Applicant are appropriate and will adequately avoid adverse effects on the natural resources of the site. Mr Brown concluded that the methods for managing three waters effects are sound, and no adverse effects on the Mata-au/Clutha River catchment will arise. He also noted that in terms of the concern about potential over-allocation of water resources the property is already allocated a volume of water from the local scheme, and no additional takes are necessary to facilitate the development. On another point, he said Mr Jennings had considered there was unlikely to be any notable archaeological material related to historic Māori occupation or use of the site and concluded that the cultural effects of the proposal in that regard will be minimal.
- [087] Mr Vincent also acknowledged Aukaha's concern regarding subdivision through the area more generally having effects on the cultural landscape and on wai māori. However, he noted that each subdivision has to be considered on its own merits based on the provisions of the district plan and he considered that these more general concerns might be better addressed through a policy response when reviewing the provisions of the rural chapter of the CODP. He said more evidence was required on three waters provisions but did not consider these effects are likely to be significant, and he subsequently assisted in formulating appropriate conditions of consent relating to the servicing. He also noted that the proposal would not impinge on access to important waterways, another concern raised in the Aukaha submission.

Findings

- [088] The Panel acknowledges the importance to iwi that this land holds. The application site is bordered to the northwest by the Mata-au and Te Wairere, the Clutha River and Lake Dunstan, respectively. We understand that this waterway and the wider Cromwell basin are associated with seasonal migrations through the area for resource gathering, including kai in the Mata-au and trade. The basin is identified by Kai Tāhu as a wāhi tupuna in draft mapping, centred largely along the Mata-au and the Lindis River, reinforcing these cultural associations. Effects such as visual and landscape effects, changes to water quality or quantity, and loss of access to the Mata-au and Te Wairere in particular can all adversely affect these cultural values.
- [089] We are satisfied, on the planning evidence of Mr Brown and Mr Vincent, that the proposed development is generally anticipated in this zone. We are also satisfied from the expert evidence of the Applicant's experts in archaeology, three waters, and landscape and visual effects that the valid concerns raised by Aukaha have been appropriately addressed in this proposal.

4.1.7 Other effects including those that were not in contention

Open Space and Recreational Needs of the Community

- [090] We are satisfied the proposal as amended would increase public access to the area through the subdivisional road and the provision of public walking trails through the landscape protection area. Mr Vincent considered that this was consistent with the public access parts of the intended purpose of the landscape protection area, as identified in Schedule 19.16 of the District Plan.
- [091] No other specific public open spaces or reserves are proposed. Mr Vincent considered that levying a financial contribution would be acceptable to help provide for upgrades to existing public recreation infrastructure in lieu of land being vested for recreation purposes.

Provision of Adequate Network Utility Services and Infrastructure

- [092] The concerns of Aukaka regarding the three water aspects have been addressed in an earlier section.
- [093] In terms of the adequacy of the infrastructure to service the proposed development, we accept Mr Vincent's overall appraisal of the expert evidence of the Applicant that the proposal would have adequate provision for

infrastructure, including potable water supply, wastewater and stormwater disposal, and electricity and telecommunications connections, subject to conditions of consent regarding its design and construction. He was satisfied that the proposed private three waters networks, including a common wastewater treatment plant, will be able to be adequately managed.

Effects on the Roding Network and Internal Roding

- [094] Access to the proposed subdivision would be from a new intersection onto Bendigo Loop Road. Mr Carr, a traffic engineer for the Applicant, assessed the access location and design as appropriate in the context of the safe and efficient operation of the wider roading network.
- [095] The New Zealand Transport Agency (NZTA) submitted, raising concerns about the adequacy of the State Highway 8 / Bendigo Loop Road intersection to safely and efficiently accommodate additional vehicle movements anticipated to result from the proposal. The submission indicated that a Diagram E standard, which incorporates specific shoulder widening to allow additional space for vehicles to manoeuvre through the intersection, would be acceptable to manage these effects. This standard was accepted by the Applicant as the appropriate level of upgrade for this intersection.
- [096] Mr Vincent, relying on the advice of Council's Land Development Engineers, considered that this access would be adequate for the additional vehicle movements anticipated. He recommended that Bendigo Loop Road be sealed between the new intersection and the intersection with State Highway 8, which was accepted by the Applicant.
- [097] Mr Vincent, relaying on the advice of Council's engineers, considered the internal roading layout to be adequate, including where it departs from Council's land development engineering standards specified in NZS 4404:2004 and the 2008 addendum to that standard.
- [098] We accept the uncontested evidence on the roading network and internal roading effects.

Risks of Flood

- [099] CKL, engineering consultant for the Applicant concluded, that whilst the proposal may increase the depth of inundation downstream adjacent to State Highway 8, even under a 1% AEP rainfall event and with all culverts under the highway fully blocked, the changes caused by this development will not inundate the surface of State Highway 8. Mr Vincent considered that the risk of inundation resulting from the proposal would therefore be minimal. We accept the uncontested evidence on flooding risk and have not been made aware of any other notable risks from natural hazards.

Risks of Fire

- [100] Fire and Emergency New Zealand (FENZ) lodged a neutral submission, requesting a range of measures to address the risk of fire. FENZ requested provision is made for firefighting water supply in accordance with SNZ PAS 4509:2008; access is provided for fire appliances; and plants with low flammability are used.
- [101] Mr Cowan prepared a Wildfire Threat Assessment to determine the potential for a wildfire to impact the development and the measures to mitigate the risk. Mr Cowan's recommendations are set out in his evidence, and Mr Brown's evidence confirms that these have been included in the Application as amended.
- [102] We note that whilst Mr Vincent, in his initial s42A report had raised some concerns about the risks of damage to buildings and risks to their occupants in the event of a wildfire. Mr Vincent advised us that he had invited further comment from FENZ, both on the proposed fire management measures generally, and specifically on the question of whether a second point of access to the subdivision would be preferable. Whilst we did not receive a response from FENZ, we note that Mr Cowan's statement of evidence²² stated that:

"On the FENZ site visit (30th Oct 24), the developer assured FENZ that two vehicular access roads would be provided alongside the ability to maintain walking access out into the vineyards to the east. FENZ indicated that this would be acceptable, however I do not have that in writing at the time this submission was prepared."

- [103] Provision for a secondary emergency access has now been included in the suite of fire risk mitigation measures in the updated proposed conditions of consent. We consider all of the concerns have now been responded to and will address the risk of wildfire.

Earthworks effects

- [104] Mr Brown in evidence said earthworks including for roading and building platforms will be kept to a minimum. Any underground services will follow the existing and proposed access routes wherever possible, and trench widths will be kept to a minimum. In all cases earthworks will be managed in accordance with an Earthworks Management Plan, including requiring they are undertaken in accordance with best practice to ensure any potential adverse effects to the surrounding environment (including sedimentation, runoff, dust etc) are appropriately mitigated.

4.1.8 Positive effects

- [105] Both Mr Vincent and Mr Brown considered the proposal will have positive social and economic effects through the creation of additional allotments able to be used for residential and related purposes including travellers' accommodation, as well as a public benefit through the provision of walking tracks.
- [106] Mr Brown also considered there will be positive ecological benefits arising from the additional biodiversity offsetting sites with additional species of indigenous vegetation, and the ongoing long-term protection through restrictive covenants which achieve an overall net gain in indigenous biodiversity values. He considered this a positive outcome when compared to non-fanciful permitted scenarios for the site.
- [107] We accept the proposal will have positive effects, as outlined in their planning evidence.

4.1.9 Other Effects - Precedent

- [108] Mr Vincent considered the unique zoning of the site was such that consent to this proposal will not cause a wider precedent effect for development outside this specific sub-zone. He considered there might be a precedent effect which would be limited in application to within the Rural Resource Area (2), but that "*... any precedent set through this proposal will reinforce the high bar that ought to be set for any development outside the development zone to minimise its effects and the measures taken to ensure the intent of the landscape protection area, as described in Schedule 19.16, is adhered to*".²³
- [109] Mr Brown considered the tight controls over the residual land within this sub-zone (i.e. Lot 200) would prevent any further development within that lot, and a precedent effect would not therefore arise. We note a volunteered condition was that there be no further subdivision of Lot 200. Ms Williams did not address any precedent effect.
- [110] We accept the evidence from both planners that the zoning of the site is unique, in particular it is zoned Rural Resource Area (2), with Schedule 19.16 Concept Plan – Rocky Point Recreation Zone, which contains a 'Development Area' and also a 'Landscape Protection Area'. Whilst the application is overall to be assessed as a non-complying activity, development of this kind is generally provided for as a controlled activity provided all relevant standards are met, and the Applicant has proposed a bespoke set of provisions which we consider enable us to consider it on the merits. In those circumstances we do not consider a precedent effect will arise from the grant of consent.

4.1.10 Overall findings on effects

- [111] Overall, from our findings recorded above, we consider that the adverse effects of the proposal are no more than minor. In context, this reflects the outcomes and the receiving environment anticipated by the CODP in this zone, which as we have noted is a unique zone and provides generally for a wide range of permitted and

controlled activities which will in themselves have effects on the ecological, landscape and archaeological values of the site.

- [112] Without having applied a permitted baseline to our assessment of effects the Panel is still satisfied that the Applicant's evidence has established that the suite of ecological avoidance, minimisation, offsetting and compensation measures, together with the bespoke building location and design considerations, are such that when all things are considered the adverse effects will be no more than minor.

4.2 National environment standards and other regulations

- [113] We adopt Mr Vincent's assessment where he concludes that the site is unlikely to have been subject to activities on the Hazardous Activities and Industries List and, therefore, that the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NESCS) is not triggered by this proposal.²⁴ There are no other National Environmental Standards (NES) relevant to the application.

4.3 National policy statements

4.3.1 National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)

- [114] All parties agreed that the NPS-IB is relevant to the application. Whether or not the proposal is consistent with the NPS-IB was one of the key points of contention at the hearing. We understand that the site is not identified in the CDDP as a Significant Natural Area (SNA), and it is not otherwise noted as having elevated ecological values in the planning maps or in Schedule 19.16. However, it is accepted by all the parties that the site would, more likely than not, meet the criteria for being identified as an SNA, as listed in Appendix 1 of the NPS-IB. It was also not disputed that the proposal would have substantial adverse effects on local ecosystems, particularly on habitats for *Raoulia Australis* scabweed, spring annual species and a range of other dryland plant species with varying levels of threat classification.
- [115] At the hearing Mr Vincent, based on Mr Harding's evidence, considered the proposal was inconsistent with the NPS-IB. He considered the proposal did not appropriately follow the effects management hierarchy as required by Clause 3.16(1), noting it does not adequately address the first rung of the hierarchy, which requires significant adverse effects on indigenous biodiversity be avoided where practical. He considered the proposal to locate development outside the development zone specified in the plan meant that all practical steps had not been taken to avoid significant adverse effects. In his response to our Minute 11, Mr Vincent changed his stance so that despite Mr Harding's recommendation, he now considered the removal of Lot 7 and the provision of additional cushionfield protection areas to be changes that would significantly reduce the effects and enabled him to recommend the grant of consent. We considered this to be his acceptance that the proposal now is in accordance with the NPS-IB.²⁵ In any event, we consider that when viewed as whole, the Applicant has taken significant steps to avoid significant habitats and vegetation where practicable, as noted in our earlier discussion on ecological effects.
- [116] The legal submissions from Ms Warnock for Department of Conservation, supported by evidence from Mr Wells, disputed whether the proposed offsetting plantings should be considered appropriate offsetting under the NPS-IB. It considered the plantings would not meet the principles for biodiversity offsetting in Appendix 3 of the NPS-IB on the basis that the biodiversity values proposed to be offset are highly vulnerable and likely to be irreplaceable.²⁶ At the hearing, Mr Vincent advised us that, when applying the effects management hierarchy, if biodiversity offsetting is not possible, then compensation could be provided if appropriate, while not being contrary to the effects management hierarchy. Relying on the principles for compensation in Appendix 4 of the NPS-IB, the submission and evidence from Department of Conservation was that compensation would not be appropriate, again citing the vulnerability and irreplaceability of the biodiversity values. Mr Ewans remained of the opinion that the amended proposal remained inconsistent with the NPS-IB.

²⁴ Adam Vincent, Initial s42A Report of Planning Officer, para 4.10.

²⁵ Adam Vincent, Response to Minute 11,

²⁶ NPS-IB, Appendix 3, Clause 2.

- [117] The case made by Ms Hill in legal submissions was that Dr Wells has taken a holistic approach to biodiversity values across the site, rather than applying a 'like for like' species comparison, and that this is consistent with the NPS-IB off-setting and compensation principles. She emphasised it is the values of the species and whether these can be adequately protected through the hierarchy that is the important consideration, and we agree with that submission.
- [118] We are satisfied that Dr Wells and Mr Beale have appropriately taken account of the ecological processes operating at the site to recognise the vegetation (i.e. the regeneration of *kanuka*) that would have occurred or is expected to occur on the site. Having considered the evidence of all parties, we are satisfied that this approach is more closely aligned with the intention of offsetting and compensation in the NPS-IB. That is, the offsetting and compensation is of the same ecosystem type and it will achieve an overall net gain in indigenous biodiversity values for lizards (based on the evidence and Lizard Management Plan prepared by Ms Samantha King, herpetologist), avifauna, invertebrates, and woody flora, and whilst there will be losses there will nevertheless be an overall positive outcome.
- [119] We note Mr Vincent's summation, where he agreed with Mr Beale, that *"While the proposed range of species used for the offsetting and compensation areas is not directly equivalent to those proposed to be lost, they are similar and related through being dryland species. I do not consider that it is appropriate to require landowners effectively lock certain ecosystems into place, particularly if that ecosystem is transitory in nature"*.²⁷ We agree with that evidence. Whilst Mr Vincent qualified this by noting the potential 'leakage effects' (from Mr Harding's evidence) and that there should be sufficient certainty in what the anticipated climax species are, we are satisfied from the Applicant's evidence, and with the proposed conditions of consent, that these aspects can be monitored, reviewed and addressed if required after implementation.
- [120] We were informed of a recent Environment Court case (*Friends of Conical Hill*) that the Applicant submitted supports the approach Dr Wells has taken in relation to offsetting and compensation for the loss of vegetation on parts of the site. The independent legal advice provided to the Panel agreed Dr Wells' approach is consistent with that decision.
- [121] We understood the case put by Department of Conservation in legal submissions and in evidence to be that in terms of the NPS-IB the activity should in essence be avoided. On balance after having considered all of the submissions and evidence we are satisfied that significant measures are now proposed to avoid effects and maintain biodiversity values and measures will be implemented to offset and compensate for loss of indigenous vegetation sufficient for us to conclude that, overall, the proposal is consistent with the NPS-IB.

4.3.2 National Policy Statement for Freshwater Management 2023 (NPS-FW)

- [122] Mr Brown's evidence was that, in reliance on the evidence of Ms Rhynd and Mr Sternberg, the principles of the NPS-FW (as set out in Clause 1.3(4)), and the objectives and policies of the NPS-FW are achieved by the proposal. He considered that the health and wellbeing of the freshwater resource, and the receiving environment for discharges, will be maintained through the design and implementation of the infrastructure. He considered there are no adverse effects on downstream users, or on wetlands or waterbodies within the site, or on the wider Mata-au/Clutha River catchment.
- [123] We accept Mr Brown's evidence, noting also that we received no other evidence on the NPS-FW.

4.3.3 National Policy Statement for Urban Development 2020 (NPS-UD)

- [124] Mr Vincent, in response to the submission of Waka Kotahi – NZTA considered that as the Central Otago District Council is not currently a Tier 3 council it is not subject to the NPS-UD. He said, regardless of that, the development is in a rural zone and not an urban zone. We agree that the NPS-UD is not relevant, noting that there was no other evidence presented to us on this matter.

4.4 Regional policy statements

- [125] We were advised that the Operative Otago Regional Policy Statement (ORPS) was made partially operative on 14 January 2019 and fully operative 15 March 2021. Decisions on the Proposed Otago Regional Policy Statement 2021 (PRPS) were issued on 28 March 2024. Several provisions of the PRPS are still under appeal.
- [126] In his s42A reports Mr Vincent considered that the proposal is consistent with some policies in both regional policy statements, but not others. For example, he considered the proposal to be consistent with the provisions related to public access, the protection of historic heritage, transport and provision for rural land, but inconsistent with those related to biodiversity and landscape values. We have earlier referred to Mr Vincent's changed stance to the application as further amended in the Applicant's initial right of reply, in response to Minute 11 in which he recommended consent should now be granted.
- [127] Ms Williams, in planning evidence for Department of Conservation, said that the PRPS aligns more closely with the national direction of the NPS-IB and therefore more weight should be applied to it when considering the matters relating to indigenous biodiversity. She also said that of particular relevance to this application is ECO-O1 which is that Otago's indigenous biodiversity is healthy and thriving and any overall decline in condition, quantity and diversity is halted, and ECO-P6 which is Maintaining indigenous biodiversity which recommends applying the effects management hierarchy to manage significant effects on indigenous biodiversity. Ms Williams also noted that Policies 5.2.3 of the ORPS and Policy HCV-HH-P5 of the PRPS both seek to avoid adverse effects on areas or places that have been identified as having special or regionally significant historic heritage, and to avoid, remedy or mitigate adverse effects on other areas or places with historic heritage values or qualities.
- [128] Mr Brown provided a comprehensive assessment of the relevant objectives and policies of these documents summarised as follows²⁸.
- [129] In relation to the ORPS, the proposal will:
- (a) Enhance the indigenous vegetation across the site through avoidance of indigenous vegetation removal where possible and proposed offsetting and enrichment planting in indigenous species;
 - (b) Overall maintain through planting measures the indigenous vegetation values and habitat within the site which will contribute to a wider ecological benefit;
 - (c) Not adversely affect the life-supporting capacity of the soil as the use of the site for primary production is not viable given the natural character and ecological values that exist on the site.
 - (d) Minimise earthworks to only those areas necessary for the residential development to be managed via an Earthworks Management Plan;
 - (e) Maintain the natural character of the site through the careful location and design of development, and the natural values of the site will be enhanced through the proposed offsetting and compensation planting and protection measures;
 - (f) Adversely affect two identified archaeological sites however these are not identified as being of regional or national significance and therefore avoidance of adverse effects is not required. Effects on the identified archaeological sites will be avoided, minimised, mitigated or remedied through the design and location of the proposal, detailed recording of sites, the imposition of a discovery protocol and earthworks monitoring requirements.
- [130] In relation to the PRPS the proposal will:
- (a) Protect ONL values by avoiding adverse effects through locating the bulk of the development outside the ONL, and locating those building platforms within the ONL in areas which reduce or eliminate adverse effects on views from Lake Dunstan, while also avoiding any development near or on character features such as the large rocky knolls and densely vegetated gullies, to maintain the overall values of the ONL;

- (b) Minimise potential adverse stormwater effects on freshwater resources, and wastewater is to be either reticulated or disposed on-site but all designs will be best-practice standard and adverse effects would be avoided or at least minimised to the extent possible, in accordance with the relevant policies;
- (c) While occurring in a rural zoning, be cognisant that the CODP enables residential activity in a "Development Area", and will not give rise to reverse sensitivity effects; and
- (d) Be consistent with the effects management hierarchy for maintaining indigenous biodiversity.

[131] In assessing the planning evidence, we consider that less weight can be placed on Mr Vincent's initial assessment of the regional policy statements, as he did not amend this to reflect his changed stance on the application as subsequently amended. We accept from Ms Williams' evidence that it is especially important in this case to acknowledge the importance of the PRPS objectives relating to maintaining indigenous biodiversity, avoiding effects on regionally significant heritage, and avoiding, remedying or mitigating adverse effects on other heritage.

[132] However, from our findings with respect to the effects of the proposed development, we are prepared to accept and adopt Mr Brown's evidence on the regional policy statements which is very comprehensive and also generally accords with our findings on effects. Overall, we consider the proposal achieves the objectives and policies of both the ORPS and the PRPS.

4.5 Central Otago District Plan

[133] Mr Vincent provided an assessment of the relevant objectives and policies in the s42A reports. In these assessments he concluded that the proposal would overall be inconsistent with the objectives and policies of the CODP. In particular, he considered that the proposal would not constitute an appropriate development, having regard to the ONL across part of the site and the anticipated rural characteristics for the area.

[134] In his response to Minute 11, Mr Vincent did not provide an update to his assessment of objectives and policies. However, given his overall stance on the application had then changed to being in support, we have assumed that he either did not consider any inconsistencies with the objectives and policies to be fatal to the amended proposal, or he considered that the amended proposal would now be consistent with them.

[135] Ms Williams' evidence did not provide a comprehensive assessment of the objectives and policies of the CODP, but rather it highlighted some selected objectives and policies, in particular:

- (a) Objective 4.3.8 - To recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and
- (b) Objective 14.3.4 - To recognise and provide appropriate protection for the values associated with the District's archaeological sites.

[136] Ms Williams also noted that there are exemptions within the plan rules for the application site (including from indigenous vegetation clearance rule 4.7.6KA) because the site was land that has been freeholded under the Crown Pastoral Lease Act. She drew attention to Section 2.3.4 of the CODP which notes there is approximately 40,000 hectares of land within the district that is administered by the Department of Conservation for conservation purposes, and that this land is being protected through the tenure review process of pastoral leases. She said the Rural Resources Area chapter (4.5.2.iv) further notes that a plan change may be required to review the extent to which significant areas are protected by being included in the conservation estate.

[137] Ms Williams noted that there has been no plan review undertaken, and this was of concern because the exemptions to the rules for indigenous vegetation clearance for properties freeholded under the tenure review had been made on the basis that the review would be an alternative statutory means to identify and address on a site-specific basis the values which are the subject of these rules.

[138] We agree with the sentiment in Ms Williams' evidence that a review of the relevant methods and rules does seem timely. However we consider the tenure review process is not directly relevant to an evaluation of whether this proposal is consistent with the stated objectives and policies in the CODP.

[139] Mr Brown, in evidence, concluded that the proposal:

- (a) Contributes to social and economic wellbeing and is consistent with the intent for the site specific, bespoke RuRA(2) zoning that applies to the land;
- (b) Maintains rural character through the layout of the development and suite of (stringent) design controls for buildings, outdoor spaces and landscaping, that are crafted to ensure that views into the site protect the values of the ONL;
- (c) Provides recreational opportunities through the commitment to new public trails and carpark, with are no adverse effects on existing users;
- (d) Recognises and provides for the protection of significant indigenous vegetation and habitats of indigenous fauna;
- (e) Protects large areas of indigenous vegetation on an ongoing basis that would otherwise not be protected (in association with permitted activities). While there will be some loss of existing indigenous vegetation as a result of the proposal, this will be offset by the proposed planting that will recreate plant compositions that were likely present in pre-settlement climax vegetation and increase plant diversity at the site and in the surrounding area, and overall there is a net ecological benefit.
- (f) The evidence of Mr Carr, Ms Rhynd and Mr Sternberg on the infrastructure services for the development, and the conditions of consent ensuring implementation and ongoing operation of the services through the proposed management entity will fulfil the various objectives and policies relating to servicing the development; and
- (g) The policies relating to heritage and cultural values are satisfied through the appropriate management of effects and the recognition of such effects in the design of the development and in the formulation of conditions.

[140] We prefer Mr Brown's comprehensive assessment and consider that, overall, the proposal is not contrary to, and achieves, the relevant objectives and policies of the CODP.

4.6 Offsetting or compensation measures

[141] Under s104(1)(ab) we are required to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

[142] Offsetting and compensation plantings form a central part of the Applicant's proposed measures to manage the ecological effects of the proposal and have been addressed in an earlier section of this Decision Report.

4.7 Section 104(1)(c) other matters

[143] We were addressed by Ms Warnock on the relevance of the Conservation Covenant to our decision making process, and this was also addressed in the planning evidence of Ms Williams, and in the independent legal advice on this aspect.

[144] Having considered those submissions and evidence, we prefer the Applicant's submissions on this point, for four reasons. Firstly, and as addressed earlier in this Decision report, the covenant is a method and not a rule in the Plan. Secondly, and more importantly, the terms of the covenant appear to provide no certainty that vegetation would not be removed or destroyed. We note the terms of the covenant are set in the context that landholders are farmers and may graze the land, and this may also include "removal of some quantity of woody vegetation" with the approval of the Minister, but there are no specific prohibitions as such on vegetation removal. The only stated restriction on buildings is that they must not be located where they may affect an historic site. Thirdly, decisions that may be taken by the Minister of Conservation are subject to a separate process, which is beyond our foresight or control, and so there can be no certainty as to the outcomes.

[145] We further note that the part of the site affected by the covenant also contains land marked for development in the CODP, i.e. it is in the 'Development Area' in Schedule 19.16 (see the map below, as sourced from the initial s42A report, Figure 12). This seems to be a tension that is not in our consideration resolved by giving special consideration to the covenant in preference to the zoning of the land.



Figure 12: Map showing the ONL notation from the District Plan (Blue stripe) and conservation covenant (Green stripe) as it relates to the site (Yellow). The development zone is the area of the site not in the ONL. Conservation covenant data is sourced from the Department of Conservation at <https://doc-deptconservation.opendata.arcgis.com/search?groupIds=2f464d8a0dde474cb63d44183fa0f>

- [146] For those reasons we do not consider the Conservation Covenant is an 'other matter' under s104(1)(c) that is 'relevant and reasonably necessary' for us to consider in determining the application. We note the Applicant has included an Advice Note in the proposed Land Use conditions advising that the consent holder is bound by the Conservation Covenant, which is appropriate. It states that the consent does not infer any rights or authorisation which are contrary to the Conservation Covenant and that authorisation will be required from the Minister of Conservation to undertake any works on the site in accordance with Conservation Covenant.
- [147] There were no other relevant s104(1)(c) matters for us to consider.

4.8 Section 106

- [148] Section 106 of the Act allows a consent authority to refuse subdivision consent if there is a significant risk from natural hazards or sufficient provision has not been made for legal and physical access. We did not receive any particular evidence on this. However we note from the AEE and from the s42A reports that the site is not subject to any Hazard Overlays or other restrictions in the CODP, and it includes land identified as a Development Area in Schedule 19.16.
- [149] We are also satisfied that, from the evidence, all lots will have adequate provision for legal and physical access, and that the risks from hazards such as inundation and wildfire can be adequately managed through conditions of consent. None of the matters in Section 106 of the Act warrant refusal of the application.

4.9 Part 2 matters

- [150] We are aware of the case law which outlines that if the lower order statutory instruments appropriately deal with Part 2 matters, then no further assessment of Part 2 matters is required. In this case, we note that the CODP is an older document, and we cannot be confident it now appropriately addresses Part 2 matters. Therefore, we consider it may be appropriate to assessed Part 2.

[151] In that regard, we concur with Mr Brown's evidence. We consider it is consistent with the various matters of national importance and other matters to which regard must be had, and in particular:

- (a) The amended proposal addresses the matters in section 5(2)(a)-(c) of the RMA by providing for peoples' well-being, social and cultural well-being, through the provision of housing;
- (b) The Applicant's evidence demonstrates that the potential of the natural and physical resources of the site will be sustained in the long term;
- (c) Water, soil and ecosystems will be safeguarded by the proposed avoidance, minimisation and remediation strategies and the offsetting in respect of biodiversity values; and
- (d) The Applicant has taken considerable care to avoid, remedy or mitigate any potential adverse effects of the proposal on the environment.

[152] Overall, the proposal achieves the purpose of the RMA.

4.10 Section 104D

[153] Under Section 104D, we must refuse a resource consent application unless satisfied that the proposal will either have minor effects on the environment, or the proposal will be consistent with the objectives and policies of the District Plan.

[154] In this case, we consider that the amended proposal will have no more than minor effects on the environment and it is consistent with the objectives and policies of the CODP. We consider the proposal passes both gateway tests in Section 104D, and we can accordingly exercise our discretion under Section 104B.

4.11 Section 104B

[155] In earlier sections of this Decision report the Panel has: assessed Part 2 of the RMA; had regard to the proposal's actual and potential effects on the environment; any measure proposed to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; the relevant provisions of the relevant national policy statement, regional policy statement and proposed regional policy statement; and the CODP; and we have established there are no other matters that are relevant and reasonably necessary for us to consider in determining the application.

[156] Our findings on all of those aspects leads us to the conclusion that consent can appropriately be granted to these applications, subject to appropriate conditions as outlined below.

4.12 Commentary on conditions

[157] The conditions attached to the subdivision and land use consents are generally the same as agreed between Mr Brown for the Applicant and Mr Vincent for the Council. Mr Vincent provided, in his response to the Panel's Minute 11, a revised set of conditions and provided his reasons for the changes that he made. Those changes were accepted by the Applicant with some modifications which we address below, including some minor changes to reflect the final sets of plans provided in the Applicant's final right of Reply, and in response to Minute 14.

Subdivision conditions

[158] The conditions for the subdivision consent include:

- (a) Condition 6 – we have added a condition to make it clear that vesting of roads is required.
- (b) Condition 7 – these include standard measures to address erosion, stormwater run-off and dust; and to provide for appropriate roading material, gravel and fill. Notably they also requires a Lizard Management Plan, as well as the protection of Archaeological Item G41/773;
- (c) Condition 8 – these include measures to avoid, minimise and remedy adverse effects on indigenous biodiversity during subdivisional works;
- (d) Condition 9 – requires easements for services, rights of way, and public access for walking tracks; and also requires building platforms to be shown on subdivision plan;

- (e) Condition 10 – provision of water supply, wastewater disposal and stormwater disposal. We note that Mr Vincent at page 12 of his supplementary report, raised concerns with the proposed design flow of 9,000L/day from CKL in their system design, based on the design flow being closer to 12,375L/day using Mt Iron Geodrill's assumption of 5 persons per lot instead of the 2.7 persons per lot used by CKL. We understand the Applicant has accepted the revised figure of 12,500L/day in the final conditions;
- (f) Condition 11 – formation of subdivisional roads, rights of way, access points (including upgrade of Bendigo Loop Rd/SH8 with NZTA input) and public paths;
- (g) Condition 12 – this is an important requirement to establish protection over the Balance Lot 200 (covenants required for this land to be maintained in perpetuity for conservation purposes) and also that the vegetation within the offset sites is protected in perpetuity, as well as requiring that no cats are kept on the property;
- (h) Condition 13 – requires the establishment of a Management Entity which will be responsible for:
 - i. managing the private shared three waters and fire management infrastructure;
 - ii. ongoing oversight of the design controls for site landscaping and buildings;
 - iii. ongoing maintenance of the public carpark, walking tracks and interpretive signage;
 - iv. ongoing management and protection of Lot 200;
 - v. implementation and management of offset planting.
- (i) Condition 13 – also requires a Fire Risk Management Plan (including provision of a secondary emergency fire exit; and weed control management);
- (j) Conditions 14/15 – these are key conditions that relate to Biodiversity Management and Enhancement. The conditions require:
 - i. certification of the *Rocky Point Ecological Enhancement and Monitoring Plan (EEMP)* to manage the offset / compensation planting sites at Bendigo Hills, and within Lot 200 the areas of cushionfield maintenance and additional high value woody vegetation plantings on the referenced plan, and management of the ecological values of the balance of Lot 200;
 - ii. implementation of the offset and compensation planting works, and procedures for the Management Entity to maintain and protect the cushionfield maintenance areas for a period of 35 years with provision for a review after 15 years and to enter into a bond covering the maintenance of all offset and compensation planting works.
 - iii. In the alternative to enter into staging of the required Offset and Compensation Planting works.
- (k) Condition 16 – a standard accidental discovery protocol; and
- (l) Condition 17 – This requires consent notices to ensure future owners are part of the Management Entity; to locate buildings on the designated building platforms, manage stormwater to not increase runoff to saline areas, observe the Fire Risk Management Plan, establish planting, retain native vegetation and fauna habitat, exclude stock, control pests. It also requires the Management Entity to be responsible for ongoing maintenance of public walking tracks, associated interpretive signage, and the cushionfield management areas. There is to be no further subdivision of Lot 200 (the balance lot for conservation purposes).

[159] The Panel has added an Advice Note to Conditions 14 and 15 on the need to ensure that the implementation of a consent on an adjoining site also owned by the Applicant does not affect the ability to provide for the off-set planting areas required by the above conditions. The Applicant had proposed this as a Condition requiring that a consent on an adjoining property is to be varied, however we consider that is not a *vires* condition that can be placed on the TKO consent.

Land Use conditions

[160] The conditions for the land use consent include:

- (a) Condition 2 – limitations placed on the numbers of traveller's accommodation guests;

- (b) Condition 3 – buildings are required to be placed on the designated building platforms;
- (c) Condition 4 – this requires that all buildings meet the maximum height and building coverage for the relevant platform set out in Appendix 1, which are the bespoke controls developed by Mr Baxter.
- (d) Condition 5 – restrictions on planting for fire risk management purposes, relating to the species listed in Appendix 2;
- (e) Conditions 6-8 – controls on exterior lighting, and interior lighting, necessary to minimise light spill and glare.
- (f) Condition 9 – reference to the other design controls contained in Appendix 1;
- (g) Conditions 10 – 26 – these relate to provision of water and services to the allotments and disposal of wastewater, and include measures to address the risk of wildfire; and
- (h) Condition 27 – accidental discovery protocols.

[161] An Advice Note has been added to signal the consent holder is bound by the Conservation Covenant and does not infer any rights or authorisation which are contrary to that. It also signals authorisation is required from the Minister of Conservation to undertake any works on the site in accordance with that.

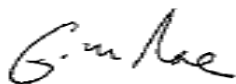
[162] The Applicant proposed a new Land Use condition to require that a consent on the adjoining property is to be varied to ensure the required offset planting on that site can be implemented. As noted above, we have included it as an Advice Note in the Subdivision Conditions where there are relevant conditions (conditions 13 and 14). The Panel does not consider it appropriate or necessary to also include this in the Land Use conditions.

4.13 Determination

[163] For the reasons set out above, under sections 104 and 104B of the Resource Management Act we grant the consents sought by TKO Developments Limited from the Central Otago District Council to undertake a 29 developable lot subdivision at the site located at the site located at the southern side of the intersection of Tarras Cromwell Road and Bendigo Loop Road, legally described as Lot 1 DP 596985, subject to the Conditions of Consent in Appendix B to this Decision report.

[164] Our reasons are detailed in the body of this Decision report, but in summary they include:

- (a) Potential adverse effects of the proposal are either minor; minimised to the extent practicable or are otherwise suitably avoided, remedied, or mitigated by the imposition of appropriate conditions of consent; and
- (b) The proposal is consistent with the relevant statutory instruments, and Part 2 of the RMA.



Gary Rae
Hearings Panel Chairperson (Acting)

28 August 2025

Appendix A - Appearances

Submission number	Submitter	Name	Role
01	Central Otago Environmental Society	Matthew Sole	Archaeological Consultant
06	Department of Conservation	Ceri Warnock	Legal Counsel
06	Department of Conservation	Matthew Schmidt	Senior Heritage Advisor
06	Department of Conservation	Richard Ewans	Technical Advisor – Ecology
06	Department of Conservation	Elizabeth Williams	Resource Management Planner
13	Shonga Kenderdine	Diane Lucas	Landscape Architect
		Applicant's team	
		Rosie Hill	Legal Counsel
		Ben Gresson	Legal Counsel
		Jeffrey Brown	Planning Consultant
		Morgan Shepherd	Planning Consultant
		Tim O'Sullivan	Applicant
		Shanon Garden	Development Management Services
		Jamie Cowan	Wildfire Management Specialist
		Chris Jennings	Senior Archaeologist
		Andrew Carr	Traffic Engineer
		Patrick Baxter	Landscape Architect
		Bronwyn Rhynd	Environmental Engineer
		John Sternberg	Engineering Manager
		Simon Beale	Ecologist
		Andrew Wells	Ecologist
		Samantha King	Herpetologist
		CODC team	
		Adam Vincent	Planning Officer
		Mike Harding	Ecologist
		Hearing administration	
		Tarryn Lines	Hearings Administrator
		Karen Smith	Hearings Administrator

Appendix B - Conditions of Consent

Consent Type: Subdivision and Land Use Consent

Consent Number: RC 230179

Purpose: Subdivision consent for subdivision creating 29 lots with building platforms and one balance allotment at Rocky Point. Land use consent for residential activity and travellers' accommodation breaching yard standards.

Location of Activity: Lakefront Terrace, Bendigo

Legal Description: Lot 1 DP 561457 (Record of Title 993471).

Lapse Date: 18 September 2030, unless the consent has been given effect to before this date.

SUBDIVISION CONDITIONS:

1. The subdivision must be undertaken in general accordance with the information provided in support of the amended application on 29 July 2024 and 04 September 2024, and the below plans (held on Council files), as amended by the following conditions.

Plan Name	Reference	Author
Subdivision layout		
Rocky Point TKO Properties Ltd Overall layout, Enlargement 1-4 and Cross Sections	Drawing W1665 Sheets 1-5 Revision H and A	Coterra
Landscape and Design Controls		
Revised Scheme Plan	4371-SK125 – 22 April 2025	Baxter Design
Lots 1-18, 19-21, 22-25, 26 and 27-30	4371-SK130–SK134 –30 October 2024, Nov 2024 and 22 April 2025	Baxter Design
Rocky Point Schedule of Lots	4371-SK129 – 12 Feb 2025	Baxter Design
Lots 27 – 30	4371-SK137 – 12 Feb 2025	Baxter Design
Ecological Mapping		
Planting and Protection Areas – Rocky Point	SK161 – 17 April 2025 and SK158 – 18 July 2025	Baxter Design

Infrastructure		
Rocky Point TKO Properties Ltd Cross Sections	Drawing W1665 Sheet 5 Revision A	Coterra
Long Road Sections	Drawing W1874 Sheets 1-6 Revision A	Coterra
Infrastructure Mapping	4371-SK128 29 – Aug 2024	Baxter Design
Indicative Water and Wastewater Plans 1-5	Drawings 5001, 6001, 6003, 6003 and 6004, Revision A	CKL

2. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.
3. The subdivision may be staged. Any conditions relevant to a stage must be satisfied prior to section 224(c) certification for that stage.
4. Unless modified by other conditions, all designs and approvals are to be in accordance with NZS 4404:2004 and Council's July 2008 Addendum to that standard. Together these two documents form the Council's Code of Practice for subdivision.
5. Certificates Schedule 1A, Schedule 1B, and Schedule 1C are to be submitted at the appropriate times as per NZS 4404:2004 where required by Council.
6. Lots 101, 102 and 103 must be vested in Central Otago District Council as Road.
7. Prior to the commencement of works occurring on site approved by this subdivision consent, the consent holder must:
 - a) Receive council Engineering Acceptance of the designs including:
 - i. Confirming who their representative is for the design and execution of the engineering work.
 - ii. Provide copies of design: reports, calculations, specifications, schedules, and drawings, as applicable.
 - b) Ensure all practicable measures are used to mitigate erosion and to control and contain sediment-laden stormwater run-off and dust from the site during any stages of site disturbance that may be associated with this subdivision.
 - c) Ensure any roading material or gravel or fill of any kind must come from a source which is free of any weed seeds in particular those of gorse, scotch broom and tree lupin. River beds are highly likely to be contaminated with these seeds. The source must be approved prior to use.
 - d) Provide to Council for certification a lizard management plan in general accordance with the Draft Lizard Management Plan recommended by Samantha King (Wildlands Consultants). The plan should include, at a minimum:
 - i) Measures for avoiding high quality lizard habitats where possible and minimising damage to lizard habitats during subdivisional works
 - ii) Remediation of lizard

habitats that are damaged during subdivisional works

- ii) Locations and nature of new lizard habitat creation to offset any areas destroyed during subdivisional works to ensure no net loss in extent of lizard habitat
 - e) Provide to Council for certification a landscaping plan showing how Archaeological feature G41/773 will be protected including by minor rerouting of the access road and the location of the public carpark.
8. Measures to avoid, minimise and remedy adverse effects on indigenous biodiversity must be implemented at all times during subdivisional works in general accordance with Section 10 of the Terrestrial Ecology Impact Assessment and Terrestrial Invertebrate Assessment lodged as Appendices H and L to the amended application respectively, and the updated lizard management plan required above. The applicant must keep records of how these measures are being implemented on the site. These records must be made available to Council on request.
9. Prior to certification of the survey plan, pursuant to Section 223 of the Resource Management Act 1991, the subdivider must ensure the following:
- a) If a requirement for any easements for services, including private drainage, is included during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.
 - b) Public access easements must be provided over the walking tracks and parking spaces identified on the Revised Scheme Plan 4371-SK125 –22 April 2025 provided in support of the amended application.
 - c) The building platforms and curtilage areas (as applicable) identified for Lots 1 - 6 and 8 - 30 must be shown on the plan of subdivision
10. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, potable water supply, wastewater disposal and stormwater disposal must be provided in accordance with the following:
- a) An operational domestic water supply must be designed and constructed to the boundary of each allotment. In general accordance with the Indicative Water Supply Plan Drawings 6001, 6002, 6003 and 6004, Revision 5 and in accordance with NZS 4404:2010. The system must be designed and constructed to provide a minimum of 1,000 litres of water per day to each allotment.
 - b) A bacteriological and chemical water test of the network water supply, sourced from a suitably qualified laboratory, must be provided to the Chief Executive. The water test must be accompanied by a laboratory report which clearly details any non-compliance with Maximum Allowable Values (MAVs) and Guideline Values (GVs) under the Water Services (Drinking Water Standards for New Zealand) Regulations 2022 and identifies appropriate means of and costs for any necessary remedial treatment.
 - c) The reticulated water network must be provided with fire hydrants sufficient to provide firefighting water coverage at the distances and pressures specified in Table 2 of SNZ PAS 4509:2008. Where any lot is not provided with sufficient coverage, the following must be registered as a consent notice on that lot:
 - i) At the time residential activity is established on Lots 1 – 6 and 8 – 30 minimum domestic water and firefighting storage is to be provided by;
 - (a) A standard 30,000 litre tank. Of this total capacity, a minimum of 20,000

litres shall be maintained at all times as a static firefighting reserve. Alternatively an 11,000 litre firefighting reserve is to be made available to the building in association with a domestic sprinkler system installed in the building to an approved standard. A firefighting connection is to be located within 90 metres of any proposed building on the site. In order to ensure that connections are compatible with Fire and Emergency New Zealand (FENZ) equipment the fittings are to comply with the following standards:

- (i) Either: For flooded sources, a 70 mm Instantaneous Couplings (Female) NZS 4505 or, for suction sources, a 100 mm and 140 mm Suction Coupling (Female) NZS 4505 (hose tail is to be the same diameter as the threaded coupling e.g. 100 mm coupling has 100 mm hose tail), provided that the consent holder shall provide written approval of Fire and Emergency New Zealand to confirm that the couplings are appropriate for firefighting purposes.
- (ii) All connections shall be capable of providing a flow rate of 25 litres per second at the connection point
- (iii) The connection shall have a hardstand area adjacent to it to allow a Fire and Emergency New Zealand appliance to park on it. The hardstand area shall be located at the centre of a clear working space with a minimum width of 4.5 metres. Access shall be maintained at all times to the hardstand area.

Note: For more information on how to comply with this Condition or on how to provide for FENZ operational requirements refer to the Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008. In particular, the following should be noted:

For more information on suction sources see Appendix B, SNZ PAS 4509:2008, Section B2.

For more information on flooded sources see Appendix B, SNZ PAS 4509:2008, Section B3.

- (b) Firefighting water supply may be provided by means other than that provided for in a) if the written approval of the Fire and Emergency New Zealand is obtained for the alternative method.
- d) A separate water reticulation network and sprinklers for fire control must be constructed in general accordance with the Indicative Water Supply Plan Drawings 6001, 6002, 6003 and 6004, Revision 5. This system must be supplied from a static reserve with a capacity of at least 340m³.
- e) A reticulated wastewater network to service Lots 4-6 and 8-18 must be designed and constructed by a suitably qualified and experienced person in general accordance with the Indicative Wastewater Plan Drawing 5001, Revision 5 and in accordance with NZS 4404:2010. The system must be designed and constructed to accommodate at least 12,500 litres per day.
- f) Stormwater management (including reticulation and disposal) shall be undertaken in general accordance with the Stormwater Management Plan (Rev 2, dated 12/07/2024), including addendum (dated 31/10/2024) and in accordance with NZS 4404:2010.

11. Prior to Section 224(c) certification, all subdivisional roads, rights of way, access points and public paths must be formed in accordance with the following:
- a) Lots 101, 102 and 103 (Subdivisional roads) must be formed to the Local Sealed standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:
 - i. 6.0m minimum sealed carriageway width with widening on curves
 - ii. Design in accordance with Austroads Guide for Geometric Design of Rural Roads.
 - iii. Road shoulder of 0.25m width metal.
 - iv. 4% normal camber and designed super-elevation.
 - v. Subgrade >CBR of 7.
 - vi. Rock armouring to be provided to side-channels along steeper sections.
 - vii. Shallow trafficable side-drains / water channels over level sections, if any.
 - viii. Suitably sized culverts in water courses.
 - ix. Road gradient must not exceed 15%.
 - x. A cul-de-sac head in accordance with Figure 3.4 of NZS 4404:2004 must be installed at the terminus of the road within Lot 103
 - b) 20.0m minimum road reserve.
 - i. 6.0m minimum sealed carriageway width with widening on curves
 - ii. Design in accordance with Austroads Guide for Geometric Design of Rural Roads.
 - iii. Road shoulder of 0.25m width metal.
 - iv. 4% normal camber and designed super-elevation.
 - v. Subgrade >CBR of 7.
 - vi. Rock armouring to be provided to side-channels along steeper sections.
 - vii. Shallow trafficable side-drains / water channels over level sections, if any.
 - viii. Suitably sized culverts in water courses.
 - ix. Road gradient must not exceed 15%.
 - x. A cul-de-sac head in accordance with Figure 3.4 of NZS 4404:2004 must be installed at the terminus of the road within Lot 103
 - c) The right of way servicing Lots 1 to 6 must be formed to the Local Access A standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:
 - i) The right of way may remain in private ownership
 - ii) Vehicle entranceway to the proposed Right of Way from the vested road Lot 101 must be constructed in compliance with Part 29 of Council's Roading Policies January 2015.
 - iii) 5.5m formed carriageway metal width with widening on curves.
 - iv) Design in accordance with Austroads Guide for Geometric Design of Rural Roads.
 - v) 5-8% normal camber and designed super-elevation.
 - vi) Subgrade >CBR of 7
 - vii) Rock armouring to be provided to side-channels along steeper sections.
 - viii) Shallow trafficable side-drains / water channels over level sections, if any.
 - ix) A well bound durable surfacing metal to be provided that is resistant to unravelling and provides good all-weather traction.
 - x) Suitably sized culverts in water courses.
 - xi) Shared access to Lots 1-2, 4-5 and 6, and an individual access to Lot 3, must be provided in accordance with Part 29 of Council's Roading Policies January 2015.
 - xii) Metal depths to NZS4404:2004 and Council's July 2008 Addendum standards.
 - xiii) 10.0m minimum road reserve.
 - xiv) Sections over 12.5% gradient shall be sealed.

- xv) No section shall exceed 16.7% gradient.
- d) The right of way servicing Lots 19 to 21 must be formed to the Right of Way standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:
 - i) 4.5m minimum formed width.
 - ii) 10.0m minimum road reserve.
 - iii) 5-8% normal camber.
 - iv) Subgrade >CBR of 7.
 - v) Durable well-bound wearing course to be constructed over pit-run base to provide all weather traction and prevent surface unravelling.
 - vi) Shallow trafficable side-drains / water channels over level sections.
 - vii) Rock armouring of side channels over steeper sections.
 - viii) Stormwater discharging to soak pits within the ROW or to natural water courses.
 - ix) Vehicle entranceway to the proposed Right of Way from the vested road Lot 103 shall be constructed in compliance with Part 29 of Council's Roading Policies January 2015.
 - x) Sections over 12.5% gradient must be sealed.
 - xi) No section may exceed 16.7% gradient.
 - xii) Access to individual lots must be provided in accordance with Part 29 of Council's Roading Policies January 2015.
- e) The right of way servicing Lot 25 must be formed to the Right of Way standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:
 - i) 4.5m minimum formed width.
 - ii) 10.0m minimum road reserve.
 - iii) 5-8% normal camber.
 - iv) Subgrade >CBR of 7.
 - v) Durable well-bound wearing course to be constructed over pit-run base to provide all weather traction and prevent surface unravelling.
 - vi) Shallow trafficable side-drains / water channels over level sections.
 - vii) Rock armouring of side channels over steeper sections.
 - viii) Stormwater discharging to soak pits within the ROW or to natural water courses.
 - ix) Vehicle entranceway to the proposed Right of Way from the vested road Lot 103 shall be constructed in compliance with Part 29 of Council's Roading Policies January 2015.
 - x) Sections over 12.5% gradient shall be sealed.
 - xi) No section shall exceed 16.7% gradient.
- f) The rights of way servicing Lots 1-2 and 4-5 must be formed to the Right of Way standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:

- i) 4.5m minimum formed width.
 - ii) 10.0m minimum road reserve.
 - iii) 5-8% normal camber.
 - iv) Subgrade >CBR of 7.
 - v) Durable well-bound wearing course to be constructed over pit-run base to provide all weather traction and prevent surface unravelling.
 - vi) Shallow trafficable side-drains / water channels over level sections.
 - vii) Rock armouring of side channels over steeper sections.
 - viii) Stormwater discharging to soak pits within the ROW or to natural water courses.
 - ix) Sections over 12.5% gradient shall be sealed.
 - x) No section shall exceed 16.7% gradient.
- g) Bendigo Loop Road between State Highway 8 and the intersection with Lot 101 must be upgraded to a Local Sealed standard in Table 3.2(a) of Council's 2008 addendum to NZS 4404:2004, with the following amendments:
- i) 6.5m minimum sealed carriageway width with widening on curves.
 - ii) Design in accordance with Austroads Guide for Geometric Design of Rural Roads.
 - iii) Surfacing to be two-coat chip seal, or asphaltic concrete.
 - iv) Road shoulder of 0.25m width metal.
 - v) 4% normal camber and designed super-elevation.
 - vi) Subgrade >CBR of 7.
 - vii) Rock armouring to be provided to side-channels along steeper sections.
 - viii) Shallow trafficable side-drains / water channels over level sections
 - ix) Suitably sized culverts in water courses.
 - x) Metal depths to NZS4404:2004 and Council's July 2008 Addendum standards.
- h) New vehicle entranceways to each of proposed Lots 3, 6, 8 – 18, 24, 26, and 27-30 must be individually constructed in compliance with the requirements of Part 29 of Council's Roading Policies January 2015.
- i) The Consent Holder shall provide to Council, correspondence from the NZ Transport Agency confirming that works in the State Highway, including the upgrading of the Bendigo Loop Road/State Highway 8 intersection to a Diagram E standard, have been constructed to the NZ Transport Agency standards.
- j) Walking tracks—and a gravelled vehicle parking area must be constructed in general accordance with the locations shown on the Revised Scheme Plan 4371- SK125 –22 April 2025 submitted in support of the amended application.
- k) Walking tracks shall be established to a poled route standard. The route shall be sign posted with periodic way finding signage. This shall include navigational or interpretive signage of heritage and archaeological values.
- l) Implementation of the landscaping plan to protect heritage feature G41/773 as certified

by Condition 7(e) above.

- m) Underground electricity connections must be provided to the boundary of Lots 1 – 6 and 8 – 30. Where lots are accessed off a right of way, the electricity connections must be extended along the right of way to the buildable area of the lot.
 - n) As-built drawings for any infrastructure to be vested in Council or private infrastructure in vested roads are to be lodged with the Council in accordance with clause 1.5.10(b) of NZS 4404:2004 and shall comply with Council's "Specifications for as-built drawing documentation version 3.1". The as-built drawings are to be provided in *.dwg/*.dxf or *.12da, and in *.pdf file format. New Zealand Vertical Datum (NZVD2016) must be used.
12. Prior to Section 224(c) certification, the consent holder must prepare and register the following covenants between the specified parties:
- a) A suitably worded covenant, to be between the future owners of Lot 200 and Central Otago District Council must be drafted for registration on Lot 200 to the effect that Lot 200 will be maintained for conservation purposes in perpetuity as set out in Condition 15 (a) – (g).
 - b) A suitably worded covenant between the Central Otago District Council and the future owners of Lots 1 – 6 and 8 – 30 and Lot 2 DP561457 for registration on Lots 1 – 6 and 8 – 30 and Lot 2 DP561457 to the effect that the vegetation within the offset sites as defined in Condition 14 is protected in perpetuity.
 - c) A suitably worded covenant, to be between the future owners of Lots 1– 6 and 8-30 and Central Otago District Council must be drafted for registration of Lots 1- 6 and 8 – 30 to the effect that no landowner or occupant will keep cats on the property.
13. Prior to Section 224(c) certification, the consent holder must also undertake the following:
- a) Formal ownership, management, and operational documents are to be provided for the Management Entity to be established and responsible for:
 - i. managing the private shared three waters and fire management infrastructure;
 - ii. ongoing oversight of the design controls for site landscaping and buildings;
 - iii. ongoing maintenance of the public carpark, walking tracks and interpretive signage;
 - iv. ongoing management and protection of Lot 200;
 - v. implementation and management of offset planting in accordance with Condition 15 and 16.
 - b) A Fire Risk Management Plan, that includes the following shall be submitted to the Council for approval:
 - i. Provision for a secondary emergency fire exit;
 - ii. Measures detailed within the FENZ fire smart guidance;
 - iii. Hydrant water supplies that meet the FW2 classification under NZ PAS4509;
 - iv. 26 wildfire sprinklers in the gully's downslope and near to the building platforms;
 - v. Water storage and supply to enable ember sprinklers to operate on houses where required; and

- vi. Access roads that meet the FENZ width and clearance requirements.
- c) Payment of a reserves contribution of \$30,008.62 (exclusive of Goods and Services Tax) calculated in terms of Rule 15.6.1(1)(a)(i) of the Operative District Plan on the basis of 29 additional dwelling equivalents.
- d) Provide evidence to the Chief Executive that weed control of the site has been undertaken to remove wildling pines and other problem weed plants. The evidence must also demonstrate that the site has been checked for plants of broom or gorse or other woody weed that can practically and reasonably be controlled now before they become widespread and these must also be removed.

Biodiversity Management and Enhancement

14. Prior to Section 224(c) certification, the consent holder shall submit to the Central Otago District Council for certification a final version of the *Rocky Point Ecological Enhancement and Monitoring Plan (EEMP)*. The updated EEMP shall in addition to the management of the offset / compensation planting sites at Bendigo Hills, include the management of the offset / compensation planting sites within Lot 200, the areas of cushionfield maintenance and additional high value woody vegetation plantings ("Proposed Offset / Compensation Planting Areas" on the BDG Plan reference SK158 dated 18/07/25) and management of the ecological values of the balance of Lot 200.
15. Prior to Section 224(c) certification, the consent holder shall
EITHER:
 - (a) Implement the required Offset and Compensation Planting works within the areas marked "Proposed Offset / Compensation Planting Areas" on the BDG Plan reference SK158 dated 18/07/25. The species and density/spacings of the Offset / Compensation Planting shall be in accordance with Section 11 of the report *Rocky Point Subdivision Terrestrial Ecology Impact Assessment* by Beale Consultants, dated July 2024, and with Section 5 of the *Rocky Point Ecological Enhancement and Monitoring Plan*, prepared by Beale Consultants, dated July 2024 and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25; and
 - (b) Establish and implement procedures for the management entity to maintain and protect the cushionfield maintenance areas shown on the BDG Plan reference SK158 dated 18/07/25. The implementation of these areas must be for a period of 35 years with provision for a review after 15 years. The review must be undertaken by an ecologist with drylands expertise and must consider whether management measures have been effective at maintaining cushionfield ecosystem quality and extent, and whether these benefits are outweighing any costs to the functioning of the wider ecosystem. Any recommended changes from the review must be implemented, unless otherwise approved by the Central Otago District Council Planning Manager; and
 - (c) Enter into a bond covering the maintenance of all Offset and Compensation Planting works as required by and undertaken in accordance with clauses (a) and (b) above. The bond shall cover the maintenance of all the required planting, and annual reporting, for a period of 5 years following the completion of the planting, and to cover the costs of replacing planting that dies or becomes diseased, damaged or is otherwise removed, to the extent required by the *Rocky Point Ecological Enhancement and*

Monitoring Plan dated July 2024 Section 8 (monitoring) and Section 9 (annual reporting). The bond will be released upon approval of the Council that the Offset / Compensation Planting has fulfilled the objectives set out in Section 11.2 of the report *Rocky Point Subdivision Terrestrial Ecology Impact Assessment*, dated July 2024 and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25.

OR:

- (d) Implement the first stage (2025) of required Offset and Compensation Planting works within one or more of the areas marked “Proposed Offset / Compensation Planting Areas” on the BDG Plan reference SK158 dated 18/07/25 or the four offset planting areas within Rocky Point, as set out in the programme in Section 10 of the *Rocky Point Ecological Enhancement and Monitoring Plan*, dated July 2024. The species and density/spacings of the Offset and Compensation Planting shall be as described in Section 11 of the report *Rocky Point Subdivision Terrestrial Ecology Impact Assessment* by Beale Consultants, dated July 2024, and in accordance with Section 5 of the *Rocky Point Ecological Enhancement and Monitoring Plan*, July 2024 and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25; and
- (e) Establish and implement procedures for the management entity to maintain and protect the cushionfield maintenance areas shown on the BDG Plan reference SK158 dated ~~17/04/~~18/07/25. The implementation of these areas must be for a period of 35 years with provision for a review after 15 years. The review must be undertaken by an ecologist with drylands expertise and must consider whether management measures have been effective at maintaining cushionfield ecosystem quality and extent, and whether these benefits are outweighing any costs to the functioning of the wider ecosystem. Any recommended changes from the review must be implemented, unless otherwise approved by the Central Otago District Council Planning Manager; and
- (f) Prepare a consent notice for registration on the record of title for Lots 1 – 6 and 8 – 30 and 200 in accordance with section 221 of Resource Management Act 1991 requiring that the further stages of the required Offset and Compensation Planting, being the stages for 2026, 2027, 2028, and 2029 as set out in the programme in Section 10 of the *Rocky Point Ecological Enhancement and Monitoring Plan*, dated July 2024, are implemented in accordance with the Section 11 of the report *Rocky Point Subdivision Terrestrial Ecology Impact Assessment*, dated 2024, and in accordance with the *Rocky Point Ecological Enhancement and Monitoring Plan* dated July 2024 and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25;
- (g) Enter into a bond that covers:
 - (i) the implementation of the further stages of the required Offset / Compensation Planting, as set out in the programme in Sections 5.3 and 10 of the *Rocky Point Ecological Enhancement and Monitoring Plan*, dated July 2024; as required by clause (d) above and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25; and
 - (ii) the maintenance of all stages of the Offset / Compensation Planting works as

required by and undertaken in accordance with clauses (c) and (d) above. The bond shall cover the maintenance of all the required planting, and annual reporting, for a period of 5 years following the completion of the planting, and to cover the costs of replacing planting that dies or becomes diseased, damaged or is otherwise removed, to the extent required by the *Rocky Point Ecological Enhancement and Monitoring Plan* dated July 2024 Section 8 (monitoring) and Section 9 (annual reporting). The bond will be released in stages upon approval of the Council that the Offset / Compensation Planting undertaken for that stage has fulfilled the objectives set out in Section 11.2 of the report *Rocky Point Subdivision Terrestrial Ecology Impact Assessment*, dated July 2024 and as otherwise required by the Wildlands Supplementary Information on Threatened/At Risk Plant Survey at Rocky Point, dated 10/02/25.

Note: If the consent holder of RM210148 affecting the adjoining land at Bendigo Hills elects to implement that consent the consent holder of RM230179 will need to take appropriate steps, such as varying consent RM210148, to ensure that the building platform on Lot 9 and the accessway to Lot 8 is relocated outside of the compensation planting area required under RM230179 and illustrated in the 'Planting and Protection Areas' plan prepared by Baxter Design Group (Ref SK158 and dated 19 July 2025).

Accidental discovery

16. If the consent holder discovers any feature or archaeological material that predates 1900, heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
- a) stop work within the immediate vicinity of the discovery or disturbance,
 - b) advise the Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014; and
 - c) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Subdivision consent notice conditions

17. Pursuant to Section 221 of the Resource Management Act 1991, consent notices must be prepared for registration on each of the certificates of title for Lots 1 to 6 and 8 to 30 hereon, for the following ongoing conditions:
- a) All lot owners are required to be part of the Management Entity as required by Condition 12(a) of RC230179.
In the absence of a Management Entity, or in the event that the Management Entity established is unable to undertake, or fails to undertake, its obligations and responsibilities, the lot owners shall be responsible for establishing a replacement Management Entity and, in the interim, the lot owners shall be responsible for undertaking all necessary functions.
 - b) All residential buildings and accessory buildings must be located on the building platform identified on the relevant lot, with the following exceptions:
 - i. Verandahs and eaves are permitted to extend up to 2.75m outside of the RBP from exterior walls on elevations orientated towards Lake Dunstan and the north

- ii. Decks are permitted on Lots 11-18 and may extend up to 2.5m outside of the RBP's on those lots and must not exceed 25m² in area
 - iii. Decks can extend 2.5m past the RBP on all other lots
 - iv. Small structures not exceeding 5m² in footprint size or 2.5m in height are permitted within the curtilage areas on each lot
- c) Stormwater from buildings, landscaping and impervious surfaces on Lots 23, 25 and 26 must be designed, constructed and maintained so as to not increase stormwater runoff into the saline areas identified in Figure 10 of the Rocky Point Subdivision Bendigo Saline/Sodic Soils Identification and Location report by Roger Gibson lodged in support of RC 230179.
 - d) All landowners must ensure their ongoing compliance with the Fire Risk Management Plan approved under Condition 12(b) of RC 230179.
 - e) Prior to the construction of any building on Lots 27-30, landscape planting must be established to mitigate views of the building from Bendigo Loop Road in general accordance with the locations and species shown on the Lots 27-30 Planning Plan reference 4371-SK137. A landscaping plan demonstrating compliance with this condition must be provided at the time building consent is lodged for any building on these lots. A copy of the landscaping plan is available on Council's records under RC 230179.
 - f) That the owner of the lot, including of Lots 1 – 6 and 8 – 30 and 200, retain and maintain, in perpetuity, the existing native vegetation and associated fauna habitat, within the lot, outside the building platform and curtilage areas shown on the plans.
 - g) Ensure that stock is excluded from the Lots 1 – 6 and 8 – 30 and 200.
 - h) That the owner of the Lots 1 – 6 and 8 – 30 and 200 shall undertake property wide weed control, and rabbit and goat control, in accordance with Sections 6 and 7, respectively, of the *Rocky Point Ecological Enhancement and Monitoring Plan* dated July 2024; and other plant and animal pest management as necessary to ensure the maintenance of indigenous biodiversity values throughout the lots. Weed control must be frequently undertaken to remove wildling pines, gorse, broom and other problem woody plant species.
 - i) The Management Entity shall be responsible for the ongoing maintenance of public walking tracks and associated interpretive signage.
 - j) The Management Entity shall be responsible for the ongoing maintenance and management of the cushionfield management areas as shown on the BDG Plan titled "Proposed Offset / Compensation Planting Areas" on the BDG Plan reference SK158 dated 18/07/25
 - k) There shall be no further subdivision of Lot 200.

Provided that a Management Entity may be established to fulfil the obligations in clauses f) – h) above collectively on behalf of all lot owners.

- 18. The consent holder must pay a reserves contribution of \$28,973.84 + GST, calculated in terms of Rule 15.6.1(1)(a)(i) of the Operative District Plan. Payment is due upon application under the Resource Management Act 1991 for certification pursuant to Section 224(c) certification. The Council may withhold a certificate under Section 224(c) certification of the Resource Management

Act 1991 if the required Development and Financial Contributions have not been paid, pursuant to section 208 of the Local Government Act 2002 and Section 15.5.1 of the Operative District Plan.

Subdivision Advice Notes:

1. *All charges incurred by the Council relating to the administration, inspection and supervision of conditions of subdivision consent shall be paid prior to Section 224(c) certification.*
2. *Development contributions for roading of \$41,851.04 (exclusive of goods and services tax) are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due upon application under the Resource Management Act 1991 for certification pursuant to Section 224(c). The Council may withhold a certificate under Section 224(c) of the Resource Management Act 1991 if the required Development and Financial Contributions have not been paid, pursuant to section 208 of the Local Government Act 2002 and Section 15.5.1 of the Operative District Plan.*
3. *Prior to the commencement of works to upgrade any existing road within existing road reserve, the consent holder needs to obtain approval from Central Otago District Council's Roading Manager in order to undertake works on the road.*
4. *As the potable water supply will be a network supply, the supplier should be aware of the requirements of, and their obligations under, the Water Services Act 2021.*
5. *Management of the risk of fire, for example through developing, adopting and implementing fire management plans, is the responsibility of the consent holder, future landowners and any entity set up to manage the development.*
6. *Prior to any disturbance of archaeological items G41/771, G41/772, G41/773 or G41/774, an archaeological authority will be required from Heritage New Zealand Pouhere Taonga. Any requirements of the archaeological authority will need to be complied with in addition to any requirements of this consent.*
7. *In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.*
8. *Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.*
9. *It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.*
10. *The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.*

LAND USE CONDITIONS:

1. This consent authorises residential activity and travellers' accommodation on the building platforms on Lots 1- 6 and 8 – 23, 25 and 26-29, in general accordance with the information provided in support of the application and as amended by the following conditions.
2. Travellers' accommodation on Lots 1- 6 and 8 – 23, 25 and 26-29 is limited to single groups of

guests per allotment.

3. All buildings must be located within the identified building platform on the lot with the following exceptions:
 - a) Verandahs and eaves are permitted to extend up to 2.75m outside of the RBP from exterior walls on elevations orientated towards Lake Dunstan and the north
 - b) Decks are permitted on Lots 11-18 and may extend up to 2.5m outside of the RBP's on those lots and must not exceed 25m² in area
 - c) Decks can extend 2.5m past the RBP on all other lots
 - d) Small structures not exceeding 5m² in footprint size or 2.5m in height are permitted within the curtilage areas on each lot. These structures must be clad in a recessive colour with an LRV less than 25%.
4. Buildings must not exceed the maximum height and building coverage for the relevant platform set out in Appendix One.
5. Plantings on each lot are limited to up to 30m² of herb and garden planting within 5m of the dwelling, and maintained to not exceed 1m in height, and otherwise the species listed in Appendix 2.
6. Exterior lighting (Both on and off buildings) must comply with the following standards:
 - a) Any exterior lighting must be downlighting and located no more than 1.2m above ground level.
 - b) All fixed exterior lighting must be directed away from adjacent roads and property boundaries
 - c) All outdoor lighting must have a colour temperature of light emitted of 3,000K or lower
 - d) Lighting must be limited to a maximum of 12 lumens per m²
 - e) Lighting must align to the Five Lighting Principles for Responsible Outdoor Lighting published by the International Dark Sky Association.
7. At the time building consent is lodged for any building incorporating exterior lighting, an exterior lighting plan must be provided demonstrating that any new exterior lighting will comply with the above standards.
8. Internal lighting must comply with the following:
 - a) There shall be no spill of light through any skylights after 10pm;
 - b) Window coverings shall be installed for large glass doors and windows that allow light to spill outside (e.g., high vaulted and dormer windows);
 - c) Shielded and tiled light fittings are used for indoor lights that are fitted near glass doors, windows and skylights.
9. Except as otherwise required by Conditions 4 to 8, buildings must be designed and constructed in accordance with the design controls attached in Appendix 1, unless otherwise approved in writing by the Planning Manager.

***Note:** For the avoidance of doubt, any control listed in the design controls but also listed in Conditions 4 to 8 will require an application be made to vary the condition, and cannot be departed from using the written approval process in Condition 9.*

10. Water filtration and UV sterilisation treatment must be provided at the water source or at point

of use, at the Building Consent stage to achieve full compliance with Water Services (Drinking Water Standards for New Zealand) Regulations 2022 by means outlined in the Laboratory Report required by subdivision Condition 8(d) above or other solutions acceptable to the Chief Executive. To further clarify, the water must as a minimum requirement achieve full compliance with mandatory provisions of Water Services (Drinking Water Standards for New Zealand) Regulations 2022 including all Maximum Allowable Values (MAV's) as detailed in the Laboratory Report and the consent holder or successor must be alerted to any exceedance of Guideline Values (GV's) for which additional treatment is strongly recommended.

11. At the time of construction of a dwelling on Lots 1-3 and 19-30, an on-site wastewater disposal system that complies with the requirements of AS/NZS 1547:2012 "On-site Domestic Wastewater Management" must be designed by a suitably qualified professional.
12. The designer must supervise the installation and construction of the system and shall provide a construction producer statement to the Chief Executive.
13. An operation and maintenance manual must be provided to the owner of the system by the designer and a copy supplied to the Chief Executive. This manual must include a maintenance schedule and an as-built of the system dimensioned in relation to the legal property boundaries. A code of compliance certificate for the dwelling and/or disposal system will not be issued until the construction producer statement and a copy of the owner's maintenance and operating manual have been supplied to the Chief Executive. The maintenance and operating manual must be transferred to each subsequent owner of the disposal system.
14. Disposal areas must be located such that the maximum separation (in all instances greater than 50 metres) is achieved from any water course or any water supply bore.
15. At the time of construction of a dwelling or any other building that generates wastewater on Lots 4- 6 and 8 – 18, the dwelling must connect to the reticulated wastewater system.
16. Stormwater from buildings and impervious surfaces must either be stored for beneficial re-use within the site, or discharged to the outfalls shown on the Indicative Stormwater Layout Drawing 4001 Revision 2.
17. That a Management Entity be established to ensure adequate provision and maintenance of water supply and wastewater treatment and disposal facilities are provided and that an appropriate monitoring, testing, reporting and maintenance regime is established to ensure compliance with Taumata Arowai Quality Assurance requirements.
18. That adequate and safe access be provided for maintenance vehicles to all water storage and treatment facilities, wastewater treatment facilities, fire hydrants and wild fire equipment.
19. That a water supply agreement be established by the Management Entity to confirm the allowable quota of water per day, and allowable peak flow rate, together with any conditions, to be allocated for the Rocky Point development from the Chinaman's water supply scheme. Arrangements must be made for measurement and recording of water supply against the agreement.
20. That adequate water quality and supply is maintained for the provision of potable, fire and wildfire water. Water quality is to be of an acceptable standard to enable proper functionality of point of entry treatment systems to provide safe drinking water, in accordance with Drinking Water Standards NZ.
21. That the Management Entity establish an appropriate operating and maintenance regime to ensure monitoring of treatment system performance and to ensure that all point of entry water treatment systems are monitored and replaced in accordance with supplier's specifications, to

ensure a sustainable supply of safe drinking water quality in accordance with Drinking Water Standards NZ.

22. That vegetation sprinklers and ember suppression systems be installed to control spread of wildfires. Wildfire protection sprinklers and any associated control valves and communication and control systems will need regular inspections and testing to ensure adequate response, functionality and reliability. Emergency/contingency plans are required to address quality/security of supply issues.
23. That an operations and maintenance (O&M) guideline be made available for (but not limited to) the water pretreatment systems (if required), water storage, reticulation, pumps (if required), individual filtration and UV systems, hydrants, sprinklers, pressure reduction valves and control valves. Appropriate servicing/replacement protocols and frequencies must be established to ensure safe and sustainable water treatment and supply.
24. That on-site site-specific investigations are carried out for each lot by a suitably qualified engineer to design an on-site wastewater treatment and land disposal system, in accordance with ASNZ1547:2012.
 - The onsite systems are expected to consist of an Aerated Wastewater Treatment System (AWTS) with bed disposal. Due to lot size, ecological effect, soil type and topographical location, lots 1 – 3 and 19 – 30 are recommended for implementation of on-site treatment and disposal (TBC at building consent stage).
25. That where lots are deemed unsuitable for on-site treatment and disposal (Lots 4 – 6 and 8 – 18): adequate provision be made for communal wastewater treatment and disposal facilities and maintained to ensure secondary treatment as per ASNZ1547:2012 and a minimum quality of:
 - BOD5 less than or equal to 20 g/m³ (mg/l) with no sample greater than 30 g/m³
 - TSS less than or equal to 30 g/m³ with no sample greater than 45 g/m³
 - That 50% reserve area for wastewater disposal be provided for the communal wastewater treatment facility.
26. That an operations and maintenance (O&M) guideline be made available for (but not limited to) the proposed communal wastewater treatment and disposal facilities. Appropriate servicing/replacement protocols and frequencies must be established to ensure safe and sustainable wastewater treatment and disposal.
27. If the consent holder discovers any feature or archaeological material that predates 1900, heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - a) stop work within the immediate vicinity of the discovery or disturbance;
 - b) advise the Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014; and
 - c) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Land Use Advice Notes:

1. *Land uses on Lots 24 and 30 have not been considered as part of this application. Any future use*

of these lots will need to comply with Rule 4.7.1 and the permitted activity standards in Rule 4.7.6 of the District Plan (Or any superseding rule), or further resource consent will be required.

- 2. Prior to the commencement of works to upgrade any existing road within existing road reserve, the consent holder needs to obtain approval from Central Otago District Council's Roading Manager in order to undertake works on the road.*
- 3. As the potable water supply will be a network supply, the supplier should be aware of the requirements of, and their obligations under, the Water Services Act 2021.*
- 4. Management of the risk of fire, for example through developing, adopting and implementing fire management plans, is the responsibility of the consent holder, future landowners and any entity set up to manage the development.*
- 5. Prior to any disturbance of archaeological items G41/771, G41/772, G41/773 or G41/774, an archaeological authority will be required from Heritage New Zealand Pouhere Taonga. Any requirements of the archaeological authority will need to be complied with in addition to any requirements of this consent.*
- 6. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.*
- 7. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.*
- 8. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.*
- 9. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.*
- 10. Future homeowners should be made aware of the risks and have the following strategies in place:*
 - Construction materials should be of low flammability particularly on the downslope side of any buildings. See FENZ "Wildfire Safer Housing Guide" Protect your home from outdoor fires | Fire and Emergency New Zealand*
 - All residents should have a fire plan, including a household evacuation plan.*
 - Activities that could start a fire should be managed to minimise the risk on an ignition, such as mowing grass on hot dry windy days.*
 - Continual management of vegetation to ensure it meets the guidelines as per the "Fire Smart Documents"*
 - Internal sprinklers are recommended to reduce the likelihood of fire spreading inside a house and from the house to other properties.*

Appendix 1 – Design Controls

- Buildings must not exceed the following maximum height and building coverage for the relevant platform

Lot No.	Height	Height Datum RL (MASL)	Platform Coverage
Lot 1	Downhill elevation – 3.0m Uphill elevation – 3.8m	+292.00	55% (220m ²)
Lot 2	Downhill elevation – 3.0m Uphill elevation – 3.8m	+291.50	49% (220m ²)
Lot 3	Downhill elevation – 3.0m Uphill elevation – 3.8m	+292.00	49% (220m ²)
Lot 4	Downhill elevation – 3.0m Uphill elevation – 3.8m	+297.00	52% (220m ²)
Lot 5	Downhill elevation – 3.0m Uphill elevation – 3.8m	+297.00	56% (220m ²)
Lot 6	Downhill elevation – 3.0m Uphill elevation – 3.8m	+298.00	56% (220m ²)
Lot 8	Downhill elevation – 3.0m Uphill elevation – 3.8m	+296.00	55% (200m ²)
Lot 9	Downhill elevation – 3.0m Uphill elevation – 3.8m	+300.00	54% (200m ²)
Lot 10	5.0m Pile foundations 1200mm in height maximum	+304.00	54% (150m ²)
Lot 11	5.0m Pile foundations 1200mm in height maximum	Natural ground level	100% (84m ²)
Lot 12	5.0m	Natural ground level	100% (84m ²)
	Pile foundations 1200mm in height maximum		

Lot 13	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 14	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 15	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 16	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 17	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 18	5.0m Pile foundations 1200mm in height maximum	Natural level ground	100% (84m ²)
Lot 19	4.5m	+332.50	91% (250m ²)
Lot 20	4.5m	+329.00	63% (250m ²)
Lot 21	4.5m	+333.00	49% (250m ²)
Lot 22	4.5m	+322.00	63% (250m ²)
Lot 23	4.5m	+322.00	65% (250m ²)
Lot 24	4.5m	+323.00	50% (250m ²)
Lot 25	Downhill elevation – 3.0m Uphill elevation – 3.8m	+328.00	65% (220m ²)
Lot 26	Downhill elevation – 3.0m Uphill elevation – 3.8m	+302.00	56% (260m ²)
Lot 27	5.0m	+203.00	49% (350m ²) ²
Lot 28	5.0m	+204.00	61% (350m ²)
Lot 29	5.0m	+210.00	57% (350m ²)

Lot 30	5.0m	+210.00	47% (350m ²)
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Refer to plans Baxter Design Plans SK130, SK132, and SK133 for roof slope indication

2. Exterior glazing on all lots must be non-reflective, recessed into any elevation be at least 250mm, and comply with the following areas:

Lot No.	Glazing
Lot 1	60% of any 3.0m high elevation
Lot 2	60% of any 3.0m high elevation
Lot 3	60% of any 3.0m high elevation
Lot 4	60% of any 3.0m high elevation
Lot 5	60% of any 3.0m high elevation
Lot 6	60% of any 3.0m high elevation
Lot 8	60% of any 3.0m high elevation
Lot 9	60% of any 3.0m high elevation
Lot 10	60% of any 3.0m high elevation
Lot 11	50% of total external wall area across all elevations combined
Lot 12	50% of total external wall area across all elevations combined
Lot 13	50% of total external wall area across all elevations combined
Lot 14	50% of total external wall area across all elevations combined
Lot 15	50% of total external wall area across all elevations combined
Lot 16	50% of total external wall area across all elevations combined
Lot 17	50% of total external wall area across all elevations combined
Lot 18	50% of total external wall area across all elevations combined
Lot 19	75% of northern elevation and 50% total external wall area across all elevations combined
Lot 20	75% of northern elevation and 50% total external wall area across all elevations combined
Lot 21	75% of northern elevation and 50% total external wall area across all elevations combined

Lot 22	75% of northern elevation and 50% total external wall area across all elevations combined
Lot 23	75% of northern elevation and 50% total external wall area across all elevations combined
Lot 24	50% of northern elevation
Lot 25	60% of any 3.0m high elevation
Lot 26	60% of any 3.0m high elevation
Lot 27	50% of total external wall area across all elevations combined
Lot 28	50% of total external wall area across all elevations combined
Lot 29	50% of total external wall area across all elevations combined
Lot 30	60% of total external wall area across all elevations combined

3. Plantings on each lot are limited to up to 30m² of herb and garden planting within 5m of the dwelling, and maintained to not exceed 1m in height, and otherwise the species listed in Appendix 2.

For all lots:

- (i) Where not prohibited by fire management requirements, only Kanuka shall be utilised for the purposes of tree or shrub planting
- (ii) Where not prohibited by fire management requirements, all tree planting (kanuka) shall be planted and maintained by the lot owner. Any deceased kanuka shall be replaced and planted by the lot owner during the planting season immediately following their loss.
- (iii) Any existing Kanuka that is removed (not including those removed for fire management) is to be replaced within the lot boundary where permitted by fire management.
- (iv) Herb and garden planting is permitted is permitted with 5m of the dwelling and shall not exceed 1m in height or 30m² in area.
- (v) All areas outside the curtilage areas shall be maintained in its existing state, retaining existing Kanuka planting where permitted by fire management.
- (vi) Outside of Kanuka, a mixture of dryland species can also be planted to aid in preventing ecological fragmentation. These species are limited to those below:
 - *Corokia cotoneaster* Korokia
 - *Olearia lineata*
 - *Olearia odorata*
 - *Coprosma propinqua*
 - *Coprosma crassifolia*
 - *Coprosma virescens*

- *Ozothamnus vauvilliersii* Mountain cottonwood
- *Meuhlenbeckia axillaris*

(vii) All noxious weeds within lots shall be controlled by lot owner.

4. **Exterior lighting (Both on and off buildings) must comply with the following standards:**

- Any exterior lighting must be downlighting and located no more than 1.2m above ground level.
- All fixed exterior lighting must be directed away from adjacent roads and property boundaries
- All outdoor lighting must have a colour temperature of light emitted of 3,000K or lower
- Lighting must be limited to a maximum of 12 lumens per m²
- Lighting must align to the Five Lighting Principles for Responsible Outdoor Lighting published by the International Dark Sky Association.

At the time building consent is lodged for any building incorporating exterior lighting, an exterior lighting plan must be provided demonstrating that any new exterior lighting will comply with the above standards.

5. Internal lighting must comply with the following:

- There shall be no spill of light through any skylights after 10pm;
- Window coverings shall be installed for large glass doors and windows that allow light to spill outside (e.g., high vaulted and dormer windows);
- Shielded and tiled light fittings are used for indoor lights that are fitted near glass doors, windows and skylights.

6. **Building form, roof and height controls**

- Lots 1 – 6 and 8 – 10, 25 and 26: All buildings shall be in monopitch ('flat') forms only to follow the natural grade of the Rocky Point landscape forms. The 'downhill' elevation (being that facing towards the primary view or drop in elevation) shall be a maximum of 3m high in height sloping back up continuous to a maximum height of 3.8m. Roof slope shall be in accordance with the plans **Baxter Design Plan SK130, SK132, and SK133** dated 30 October 2024.
- Lots 11 – 18: All buildings shall be standalone 'cabins' with footprints of maximum area of 84m². Maximum height shall be 5.5m, with single gabled roof forms between 20 and 35 degrees only. No hip roofs are permitted. All buildings shall be constructed on timber piles with piles not to exceed 1200mm in height. Decks are permitted and may extend up to 2.5m outside of the RBPs, provided that any deck shall not exceed 25m² in area.
- Lots 19 – 23: Buildings shall not exceed 4.5m in height and shall have a gable roof only. A break in the gable (flat roof) is permitted up to maximum 3m in height.
- Lot 24: The building shall be designed as a typical farm building and shall not exceed 4.5m in height. The roof shall be gabled in form between 20-25 degrees, with the gable running west to east along the building form. A break in the gable (flat roof) is permitted up to 3m in height.
- Lots 27 – 29: Buildings shall not exceed 5.0m in height and shall have a gable roof form. A break in the gable (flat roof) is permitted up to 3m in height.

- (f) Lot 30: The building shall not exceed 5.5m in height. The roof shall either be a gable form between 20-25 degrees or shall be in a monopitch ('flat') form. A break in the gable (flat roof) is permitted up to 3m in height.
- (h) For Lots 1 – 6 and 8 – 10 and 19 – 30, the datums are specified for each dwelling on a level RBP. Building heights are determined from those specified datums. No buildings shall exceed the specified heights by way of excavation below the specified datums
 - (i) For all lots:
 - (i) Flat connections are permitted between gabled and monopitch building forms. Any flat connections are to be level with to or below gutter levels. Flat connections shall be at 3m high and not exceed 15% of the building's footprint. All windows on the lower elevation shall be either recessed 1m back from the building edge or the roofline shall extend 1.5m past the windows.
 - (ii) All roof colours should have an LRV of less than 27%. Roof materials shall be restricted to one material from the listed materials only.
 - (iii) Each building platform has a specified R.L. datum as set out on the schedule **SK129** with maximum heights for dwellings on each RBP noted.

7. Roof materials and external wall cladding

- (a) Lots 1– 6 and 8 – 10, 25 and 26:
 - i. Roof Material: All roof material on these lots shall be **Steel tray roof** in Colorsteel 'Flaxpod' or similar or in **corrugated iron**, in Colorsteel 'Flaxpod' or similar;
 - ii. Wall claddings: Exterior wall materials shall be restricted to the following materials only:
 - i. Natural timber cladding, left to weather or in a clear 'natural' stain;
 - ii. Stained timber cladding, in a 'Drydens' Stain Elm wood oil, or similar, or in a black stain;
 - iii. Corrugated Iron cladding, in colorsteel 'Flaxpod' or similar;
 - iv. Steel tray cladding in Colorsteel 'Flaxpod' or similar, to match roof finish;
 - v. Concrete, either in situ or precast. Low light reflection coefficient to be achieved through texture or oxide additive;
 - vi. Locally sourced schist stone, laid horizontally with dark tinted mortar/grout;
 - vii. Steel sheet cladding, in mild steel, with steel oil ('Penetrol' or similar) to prevent rusting.
- (b) Lots 11 – 18:
 - i. Roof material: All roof material on these lots shall be **Steel tray roof** in Colorsteel 'Flaxpod' or similar or in **corrugated iron**, in Colorsteel 'Flaxpod' or similar
 - ii. Wall claddings: Exterior wall materials shall be restricted to the following materials only:
 - i. Horizontal rusticated weatherboard left to weather or in a clear 'natural' stain

or in a 'Drydens' Stain Elm wood oil, or similar, or in a black stain.

(c) Lots 19 – 23:

- (i) Roof Material: All roof material on these lots shall be **Steel tray roof** in Colorsteel 'Flaxpod' or similar or in **corrugated iron**, in Colorsteel 'Flaxpod' or similar
- (ii) Wall claddings: Exterior wall materials shall be restricted to the following materials only:
 - Natural timber cladding, left to weather or in a clear 'natural' stain,
 - Stained timber cladding, in a 'Drydens' Stain Elm wood oil, or similar, or in a black stain,
 - Corrugated Iron cladding, in colorsteel 'Flaxpod' or similar
 - Steel tray cladding in Colorsteel 'Flaxpod' or similar, to match roof finish.
 - Concrete, either in situ or precast. Low light reflection coefficient to be achieved through texture or oxide additive,
 - Locally sourced schist stone, laid horizontally with dark tinted mortar/grout
 - Steel sheet cladding, in mild steel, with steel oil ('Penetrol' or similar) to prevent rusting

(d) Lot 24:

- i. Roof and Wall claddings: the building shall be clad in locally sourced schist stone stacked horizontally or in aged un-coloured corrugated iron, or a combination of both. Timber barge boards are permitted also.

(e) Lots 27 – 29:

- i. Roof Material: All roof material on these lots shall be Steel tray roof in Colorsteel 'Flaxpod' or similar or in corrugated iron, in Colorsteel 'Flaxpod' or similar or in aged corrugated iron;
- ii. Wall claddings: Exterior wall materials shall be restricted to the following materials only:
 - Natural timber cladding, left to weather or in a clear 'natural' stain;
 - Stained timber cladding, in a 'Drydens' Stain Elm wood oil, or similar, or in a black stain;
 - Corrugated Iron cladding, in colorsteel 'Flaxpod' or similar;
 - Steel tray cladding in Colorsteel 'Flaxpod' or similar, to match roof finish;
 - Concrete, either in situ or precast. Low light reflection coefficient to be achieved through texture or oxide additive;
 - Locally sourced schist stone, laid horizontally with dark tinted mortar/grout;
 - Steel sheet cladding, in mild steel, with steel oil ('Penetrol' or similar) to prevent rusting.

(f) Lot 30:

- (i) Roof Material: All roof material on this lot shall be Steel tray roof in Colorsteel

‘Flaxpod’ or similar or in corrugated iron, in Colorsteel ‘Flaxpod’ or similar or in aged corrugated iron

(ii) Wall claddings: Exterior wall materials shall be restricted to the following materials only:

- Natural timber cladding, left to weather or in a clear ‘natural’ stain,
- Stained timber cladding, in a ‘Drydens’ Stain Elm wood oil, or similar, or in a black stain,
- Corrugated Iron cladding, in colorsteel ‘Flaxpod’ or similar
- Steel tray cladding in Colorsteel ‘Flaxpod’ or similar, to match roof finish.
- Concrete, either in situ or precast. Low light reflection coefficient to be achieved through texture or oxide additive,
- Locally sourced schist stone, laid horizontally with dark tinted mortar/grout.
- Steel sheet cladding, in mild steel, with steel oil (‘Penetrol’ or similar) to prevent rusting.

(g) All lots: For steel and aluminium joinery all window and door joinery, gutters and downpipes shall be coloured to match the roof and exterior wall cladding. Timber window and door joinery is permitted on all buildings. No galvanized finishes are permitted.

8. Curtilage areas

For all curtilage areas as shown on the plans BDG plans SK4371-SK130–SK134, dated 30 October 2024:

- (i) All buildings, structures, fixed clothes lines, play equipment, sculptures or any other items associated with domesticated landscaping and structures are to be located within the curtilage areas and out of locations where they may be visible from wider views,
- (ii) No garden art or sculptures beyond the curtilage areas are permitted.

9. Fencing and gates

a) For all lots:

- (i) No fencing materials outside the curtilage area are permitted
- (ii) Fencing within the curtilage area is restricted to 1m high post and wire fencing only for the purpose of containing pets and for rabbit proofing.
- (iii) Any gate or feature wall shall be 1.0m high only, unless required for retaining. Materials will be limited to the following:
 - Timber left to weather naturally
 - Locally sourced schist stone, laid horizontally,
 - Mild steel left to weather.
 - A combination of the above

Fencing required for the purposes of stock exclusion, and plant and pest management is excluded from this control.

10. Development – Earthworks, driveways and parking

- (a) For all lots:
 - (i) Vehicle courtyards are restricted to gravel or exposed aggregate only.
 - (ii) Driveways shall be in gravels only

11. Development – External lighting

- (a) For all lots:
 - (i) Any external lighting shall be restricted to down lighting only and no higher than 1.2m.
 - (ii) Lighting should not create any light spill and shall be low lux level. Light sources are to be LED, incandescent, halogen or other 'white light'. Sodium vapour or other coloured lighting is not allowed.
 - (iii) Lighting shall align to the 5 Five Principles for Responsible Outdoor Lighting from the International Dark-Sky Association.

12. Development – Utilities and exterior service areas

- (a) For all lots:
 - (i) Air conditioning units, meters or any other electronic units relating to the house shall be painted to match house cladding or screened with planting.
 - (ii) No air conditioning units, heat pumps etc or other units of any kind are permitted to be mounted on the roof.
 - (iii) All site utilities such as gas supply, electrical supply, storm water piping, foul sewer, and telecommunications, shall be underground or contained within the building structure.

All water tanks shall be located within the curtilage areas, be buried underground a minimum of 60%, fully screened by planting and shall be in dark colours.

Notes:

1. *Ground level must be established for each residential building platform at the time of survey.*
2. *A 'continuous length' will be measured as follows for walls that modulate: where modulation involves a step-back of one metre or more in depth it will be counted as a new wall, but where modulation is less than one metre in depth it will be considered a continuous length. A modulated building with shadow lines will assist to integrate it into the kanuka landscape.*

13. General

- (a) For all lots:
 - (i) and amenity plantings) that are known to have weed potential including Planting of non-indigenous vegetation for the purpose of amenity (and ornamental garden) or production (a vegetable garden) up to 30m² within the curtilage area of each
 - (ii) All machinery used for residential building or access construction must be washed down prior to coming on site to remove soils or material that could be carrying weed seeds.

- (iii) Plants (gardens plants on the National Pest Plant Accord and/or Otago Regional Council weed register are prohibited.
- (iv) Development/plantings and soil disturbance is not permitted in the observed areas and areas of defined Saline Soils of saline soils and cushion plants as shown in the Plans attached to this consent notice.

Note: *The Plan showing the observed areas and defined areas of Saline Soils and cushion plants must be attached to the consent notice.*

- (v) Any roading material or gravel or fill of any kind must come from a source which is free of any weed seeds, in particular those of gorse, scotch broom and tree lupin. Riverbeds are highly likely to be contaminated with these seeds. The source must be approved by the CODC Planning Manager prior to use.
- (vi) There shall be no further subdivision of Lots 1 – 6 and 8 – 30.

Note: *The consent holder is bound by the Conservation Covenant (ref: J and H Perriam and Minister of Conservation, Document ID 110111430) and this consent does not infer any rights or authorisation which are contrary to the Conservation Covenant. Authorisation from the Minister of Conservation will be required to undertake any works on the site in accordance with Conservation Covenant.*

Appendix 2: Plant Species List

Trees

Cordyline australis
Griselinia littoralis
Hoheria angustifolia
Kunzea serotina
Myrsine australis
Pittosporum
tenuifolium Plagianthus
regius Pseudopanax
ferox Sophora
microphylla Myrsine
divaricata Olearia
lineata

Shrubs

Veronica pimeleoides
Vittadinia australis
Carmichaelia compacta
Coprosma dumosa
Coprosma crassifolia
Coprosma propinqua
Coprosma virescens
Corokia cotoneaster
Melicope simplex
Melicytus alpinus
Olearia odorata
Ozothamnus vauvilliersii
Veronica salicifolia

Herbs, Mosses, Ferns and Vines

Raoulia australis

Muehlenbeckia australis
Muehlenbeckia complexa
Muehlenbeckia axillaris
Rubus schmidelioides
Bryophytes

Asplenium flabellifolium
Polystichum neozelandicum
Asplenium richardii
Pellaea calidirupium

Issued at Central Otago on 28 August 2025

A handwritten signature in black ink, appearing to read 'Tarryn Lines', with a small dot at the end.

Tarryn Lines

Team Leader – Planning Support