

SUMMARY EVIDENCE OF CRAIG ALAN BARR ON BEHALF OF D. J JONES FAMILY TRUST AND N. R SEARELL FAMILY TRUST

INTRODUCTION

- 1 My full name is Craig Alan Barr. My qualifications and experience are set out in my Evidence in Chief dated 27 September 2024.

SCOPE OF SUMMARY OF EVIDENCE

- 2 This Summary of Evidence sets out the key points within my Evidence in Chief **(EIC)**.
- 3 In this summary of evidence, I will also address matters raised in the Evidence prepared on behalf of Bannockburn Responsible Development Incorporated **(BRDI)** which are within area of my expertise. I will address the following:
- (a) Mr Werner Murray's planning evidence; and
 - (b) Landscape expert Ms Anne Steven's planning context statements.

APPLICATION AMENDMENTS

- 4 Mr Milne's summary statement identifies changes made to the Proposed Subdivision Master Plan **(Master Plan)** and the Proposed Subdivision Landscape Plan **(Landscape Plan)** (attached as Appendix A and Appendix B respectively to his summary of evidence).

SUMMARY OF EVIDENCE

- 5 Both individually and collectively, the adverse effects of the activity on heritage and archaeological values, landscape and visual amenity, stability issues, transport, contaminated land and servicing are appropriate.
- 6 The Application is consistent with the relevant objectives and policies of the Central Otago Operative District Plan **(ODP)**, and those of the Large Lot Residential Zone **(LLRZ)**. While some provisions of the LLRZ are subject to appeal, including that the minimum lot size be reduced, the objectives and policies of the LLRZ relevant to this Application are not contested and

considerable weight is able to be applied to these provisions. The relevant objectives and policies to this Application are in section 7 Residential Resource Area, Replacement section 7 Residential Zones, and Section 14 Heritage. There is no need to resort to higher order documents such as the Otago Regional Policy Statement or Resource Management Act 1991 (**RMA**) for primary decision making guidance on this Application.

- 7 The Application has been carefully designed and considered by the respective supporting technical inputs, which I consider has resulted in a considered and integrated approach to future built form, not only in terms of future buildings within the Building Line Restriction (**BLR**) but the impact of future buildings on all lots of the subdivision, including reducing the building coverage on each lot as much as 50% of the ODP building coverage, and careful consideration of maximum building heights on each lot.
- 8 Heritage matters have been carefully considered and integrated into the proposal. The proposal will provide for several positive aspects, being the preservation and adaptive reuse of archaeological items (predominantly water races), a reserve (Lot 30) at the terminus of the proposed road, which the Council is supportive of. The reserve at Lot 30 will be located where it provides a good outlook over the Cromwell Basin, will provide connections to the existing informal track on Lot 40 and Lot 51 which are proposed to be formalised through easements in gross. Provision is also expected to be made for interpretation panels and integration with the retention and reuse of the archaeological features.
- 9 Adverse effects on heritage values and landscape and visual amenity values are avoided or mitigated, while compensatory elements such as the reserve, efforts to retain many heritage features and incorporate these into the subdivision, and the formalising of walking tracks are positive outcomes of the Application.
- 10 The Application requires restricted discretionary activity resource consents, and does not require resource consent via Rules 7.3.4(ii) and SUB-R7 (hazards and subdivision) which have a discretionary activity status. But even if the Application were considered a discretionary activity, no parts of my assessment, or the scope of my assessments and the conclusions would change. This is because the matters of discretion available to the Council are broad and

encompass the key matters relevant to the Application, being heritage values and landscape and visual amenity.

- 11 Conditions of consent attached as Appendix F to Counsel's legal submissions form an adequate basis for ensuring adverse effects are managed as proposed, including future development facilitated by the subdivision is undertaken in accordance with the Application, and the activity is appropriately managed through the subdivision development process.

EVIDENCE OF WERNER MURRAY AND ANNE STEVEN ON BEHALF OF BANNOCKNBURN RESPONSIBLE DEVELOPMENT INCORPORATED

- 12 The Evidence of Werner Murray dated 21 February 2025 and Anne Steven dated 7 October 2024 on behalf of BRDI, responds to the Trust's application.
- 13 The evidence for BRDI concludes that the application as drafted should be rejected due to significant effects which cannot be adequately mitigated.
- 14 In this section I address those parts of the BRDI evidence that address matters within scope of my expertise.
- 15 The approach I have adopted in this response section is to identify those parts of the BRDI evidence where I disagree, and to explain my reasons for disagreement.

Response to Werner Murray evidence

- 16 Mr Murray asserts that the BLR at Bannockburn is a line on a [District] Plan map, and that similar restrictions are present in other district plans, such as the Urban Growth Boundary and the Outstanding Natural landscape lines within the Queenstown Lakes District Plan¹. Mr Murray then states that the ODP provides limited guidance on the BLR, and then asserts that this is a consequence of a first generation RMA district plan².
- 17 I consider that Mr Murray is overstating the significance of the BLR at Bannockburn in relation to other district plan map annotations, which are

¹ Evidence of Werner Murray at [35].

² Ibid at [39-40].

deployed to inform the policy intentions of the ODP, particularly where these engage part 2 of the RMA and section 6 matters of national importance.

- 18 This is because the ODP, at Section 2 'The Resources and Significant Resource Management Issues for the District', identifies the following significant issues as follows:
- 18.1 Section 2.3.1 Landscape identifies the Outstanding Natural Features and Outstanding Natural Landscapes of the District. Buildings and development in these areas require a discretionary activity resource consent for building in these areas³, and there are specific objectives and policies in the Rural Resource Area that manage subdivision, use and development in these areas⁴.
- 18.2 Section 2.3.2 identifies the Significant Amenity Landscapes of the District, Building and subdivision within these areas requires a discretionary activity resource consent, and are subject to RRA policies 4.4.2 and 4.4.10.
- 19 By comparison, Section 2.7 Heritage Resources, identifies several parts of the District and while the focus is on built heritage, the text and the Significant Issue Statement⁵ refers to archaeological sites and historic sites. I note that there is no specific mention of Bannockburn or the BLR.
- 20 While I consider the heritage values of the site to be important, I do not agree with Mr Murray that the BLRs in the ODP are intended to be placed on the same statutory footing as ONL and ONFs, or significant amenity landscapes.
- 21 I also note, that the Queenstown Lakes District Plan requires a non-complying resource consent for activities that engage urban growth and landscape related provisions, for instance urban development in a rural zone, and that the relevant objectives and policies are located in the Strategic Directions chapters of that District Plan, with avoidance type policies reinforcing that urban growth extensions are best provided for by plan change processes rather than resource

³ Rule 4.7.4.i.

⁴ Policy 4.4.1 Outstanding Natural Landscapes and Outstanding Natural Features and Land in the Upper Manorburn/Lake Onslow Landscape Management Area.

⁵ ODP Section 2.7: Significant Issue – Heritage Resources.

consent applications⁶. These are not comparable plan map annotations to the BLR at Bannockburn.

22 For the above reasons, I consider that Mr Murray has oversimplified the use of district plan map annotations and has overstated the strategic importance of the BLR at Bannockburn and the policy intentions of the ODP. It remains my opinion that the ODP policy framework as canvassed in the Application, my evidence and Ms Royce's hearing report for the Council have sufficiently assessed the relevant objectives and policies, including those relating to heritage, such as ODP Objective 14.3.4 and Policy 14.4.6 (Archaeological Sites).

23 Paragraph 60 of Mr Murray's evidence states:

Turning then to Section 6(c)⁷ [sic] of the RMA it needs to [sic] be said that these historic heritage features need protections from inappropriate subdivision, use and development. While I understand that an Archaeological Authority could be obtained to destroy these features, this consent is the correct point in time to fully consider these important historic heritage features as part of an integrated assessment, with the appropriate tools in hand like the BLR, landscape assessments that take the heritage landscape fully into account, the RPS and section 6 of the RMA.

24 The Bannockburn Heritage Landscape Study referred to by Mr Murray is relevant as a section 104(1)(c) 'other' matter, but is not a statutory document and therefore, must be given less weight than the objectives and policies of the ODP. I do not agree with Mr Murray's approach to assessing the effects of the activity where he uses the Bannockburn Landscape Heritage Study to inform his interpretation of the Operative Regional Policy Statement for Otago 2019 (**ORPS**) and in particular Objective 5.2.3 which manages historic heritage⁸. In doing so, Mr Murray is attempting to replace the ODP with a report which has no statutory relevance in an RMA context. Furthermore, this document does not appear to be endorsed by the Council formally in any way. The study was commissioned by the Department of Conservation⁹.

⁶ For instance QLDC Strategic Landscape Policy 6.3.2.1 is 'Avoid urban development and subdivision to urban densities in the rural zones'.

⁷ Section 6(f) of the RMA pertains to heritage. Section 6(c) pertains to indigenous biodiversity.

⁸ Ibid at [51].

⁹ Refer to page 64 of Mr Murray's evidence. The report is specified as Copyright September 2004, New Zealand Department of Conservation.

- 25 Mr Murray refers to but does not describe ORPS Policy 5.2.3, which I set out in full below:

Policy 5.2.3 Managing historic heritage Protect and enhance places and areas of historic heritage, by all of the following:

- a) Recognising that some places or areas are known or may contain archaeological sites, wāhi tapu or wāhi taoka which could be of significant historic or cultural value;*
- b) Applying these provisions immediately upon discovery of such previously unidentified archaeological sites or areas, wāhi tapu or wāhi taoka;*
- c) Avoiding adverse effects on those values that contribute to the area or place being of regional or national significance;*
- d) Minimising significant adverse effects on other values of areas and places of historic heritage;*
- e) Remedying when adverse effects on other values cannot be avoided;*
- f) Mitigating when adverse effects on other values cannot be avoided or remedied;*
- g) Encouraging the integration of historic heritage values into new activities;*
- h) Enabling adaptive reuse or upgrade of historic heritage places and areas where historic heritage values can be maintained.*

- 26 I consider that Mr Sole's assessment has, at a very fine scale, responded to and has implemented subclause (c) of Policy 5.2.3 by informing the application where adverse effects needed to be avoided on those values of the Site which contribute to the area being of regional significance.

- 27 At paragraph 55 of Mr Murray's evidence, he asserts adverse effects on heritage values have not been avoided and has annotated a plan from Mr Sole's assessment. Mr Murray has labelled this plan (refer to white hand-drawn text) and appended it to his evidence. The handwritten notes each state:

- *Obscured by planting*
- *Filled in by gravel path*
- *Effectively replaced by single track trail*

- 28 In relation to the extent of adverse effects on these matters I prefer the opinion and expert heritage evidence of Mr Sole who supports the planting in the proposed reserve Lot 30. I note, that the water races on the road and Lot 30 will be incorporated into the road and reserve for the purposes of protection by adaptive reuse. The single track on Lot 40 incorporating adaptive reuse of a section of the Shepherds Creek water race is an existing route that has been used by the public on an informal basis. As expressed in the proposed conditions of consent, only limited earthworks, if any, are promoted to this track.
- 29 For these reasons, I do not agree with the conclusions of Mr Murray's evidence, particular at paragraph 62 where he considers that the applicant has failed to engage with the Landscape Heritage Study or properly justify building within the BLR.

Response to Anne Steven evidence

- 30 Ms Stevens, the landscape expert for the BRDI, discusses the planning context of the Application at paragraphs 58 through to 77. I note that Ms Stevens' evidence appears to read primarily as a critique of the Application's RMM landscape assessment and Mr Milne's evidence and she does not refer to my planning evidence, the evidence of Mr Sole, or the application's assessment of effects on the environment.
- 31 I have identified the following statements in Ms Stevens' evidence regarding planning matters that are incorrect:
- 31.1 That the PC19 provisions have no legal weight;¹⁰
 - 31.2 That they promote a similar outcome to the ODP RRA(4) zone¹¹;
 - 31.3 That ODP Rule 7.3.5(iv) which requires an average minimum lot size of 2000m² has not been mentioned as part of the Application and that the application does not achieve 2000m² minimum average lot size¹².

¹⁰ Evidence of Anne Stevens at [58].

¹¹ Ibid at [58].

¹² Ibid at [72].

- 32 These statements and associated assumptions appear to have had a significant bearing on Ms Stevens assessment of the effects of the Proposal on the openness and open space over the whole site.
- 33 I refer to my evidence where I explain the following planning elements of the Application including:
- 33.1 The Application achieves the average minimum lot size of 2000m² as required by the ODP;
- 33.2 The Application achieves the LLRZ anticipated lot size of 1500m² minimum;
- 33.3 For context, the introduction of the LLRZ comprehensive residential development rules (LLRZ-R12 and SUB-R5) now allow a 'gross site area' approach (that lots can be less than 1500m² providing the average density across the site achieves 1500m² minimum); and
- 33.4 That the PC19 rules have legal effect and that appeals on PC19 cannot result in the residential density rules for the LLRZ at Bannockburn having a lower density than 1500m².
- 34 Ms Stevens has not appreciated the extent to which the PC19 framework has advanced through the plan change process, and is relying on planning provisions from ODP Section 7 which are soon to be rendered inoperative.
- 35 Ms Stevens considers that a relevant policy which has not been included is ODP Policy 7.2.8, where she states¹³ that this policy:

addresses managing landscape change at the interface of resource areas. It requires the Plan to be read as a whole. I interpret this as requiring consideration of the policies for the adjoining Rural Resource area when assessing landscape effects. These require assessment of effects on open space, natural character (including the preservation of the natural character of lakes, rivers and their margins) and amenity values (generally) and in particular to maintain the open rural character of, inter alia, hills and prominent hillsides. This aligns well with the purpose of the BLR.

¹³ Ibid [74].

- 36 Policy 7.2.8 is not recorded in Ms Steven's evidence. I have provided the full text of the policy below:

7.2.8 Policy - Management of Change

Cross Reference: Objective 7.1.2, 7.1.3

In recognition of the difficulty anticipating the timing and extent of change to the pattern of land use that is necessary to enable the community to provide for its wellbeing and to reconcile with the foregoing policies, it is appropriate that any major change at the interface between the various resource areas be considered within the wider context of the plan as a whole.

Explanation

It is a purpose of this plan to manage change at the interface between resource areas. Such change can be addressed through the resource consent process (where conditions of consent may be applied) or through the plan change process.

- 37 I consider that Policy 7.2.8 is intended to provide guidance for plan changes, or large-scale subdivisions, including where new sensitive activities may impinge upon established rural or industrial activities. This application comprises the subdivision of a site that is entirely zoned for urban development. I also consider that the residential activity is not at the interface between two resources areas, albeit some lots are within the BLR. The BLR is applied at this location to manage the adverse effects buildings locating within it. However, this application is not a major change at the interface between resource areas.
- 38 Ms Stevens also relies on Policy 7.2.8 to apply her assessment through the lens of ODP Policies 4.4.10 and 4.8.10 which are policies of the Rural Resource Area¹⁴. I do not agree with this approach. Section 4.4 of the ODP (Policies in the Rural Resource Area) does not enable the policies of the Rural Resource Area to apply to the Residential Resource Area (i.e. the Application site). The ODP (Section 4 Rural Resource Area) states:

4.4 Policies

The policies contained in this section apply to the Rural Resource Area. Some of these policies also apply in the Water Surface and Margin Resource Area. The policies contained in the following sections are also relevant to the subdivision, use, development and protection of land in the Rural Resource Area;

¹⁴ Ibid at [74].

Section 3.4 (Manawhenua)

Section 12.4 (District Wide Issues)

Section 13.4 (Infrastructure, Energy and Utilities)

Section 14.4 (Heritage)

Section 15.4 (Financial Contributions)

Section 16.4 (Subdivision)

Section 17.4 (Hazards)

- 39 Likewise, the corresponding statement in the Residential Resource Area (ODP Section 07) does not invite the application of Rural Resource Area Policies to the application site:

7.2 Policies

The policies contained in this section are specific to the Residential Resource Area. The policies contained in the following sections are also relevant to the subdivision, use, development and protection of land in the Residential Resource Area:

Section 3.4 (Manawhenua)

Section 6.4 (Urban Areas)

Section 11.3 (Heritage Precincts)

Section 12.4 (District Wide Issues)

Section 13.4 (Infrastructure, Energy and Utilities)

Section 14.4 (Heritage)

Section 15.4 (Financial Contributions)

Section 16.4 (Subdivision)

Section 17.4 (Hazards)

- 40 For the above reasons, I do not support Ms Stevens opinion that Policy 7.2.8 invites consideration of policies from other resource areas (zones) as relevant to the Application. I also do not consider Policy 7.2.8 to be of primary relevance to this activity, particularly given that building within a BLR is a restricted discretionary activity, the matters of discretion inherently limit how far the net can be cast in terms of which policies are relevant to the activity.

- 41 Collectively, I find Mr Murray and Ms Steven's evidence for the BRDI to be contradictory to each other. Mr Murray criticizes the ODP for lacking a framework for managing land use consents and buildings within the BLR, provides limited guidance¹⁵, while Ms Stevens states in her evidence that the BLR is as strongly expressed as when it was first conceived as a protective planning mechanism¹⁶, while relying on inoperative planning schemes to guide her understanding of the purpose of the BLR.
- 42 I consider the Mr Sole and Mr Milne have successfully integrated the valued heritage elements and landscape features of the site and that the adverse effects will be minor, and the activity is consistent with the relevant District Plan (both the ODP and PC 19) objectives and policies.

RESPONSE TO MINUTE 9 OF THE HEARINGS PANEL

- 43 A Memo from the Section 42A officer dated 25 February 2025 queried whether resource consent is sought under the comprehensive residential development (**CRD**) rule framework, introduced to the LLRZ through submissions on PC19. Minute 9 from the Hearing's Panel sought clarification and confirmation of related matters.
- 44 As described in paragraph 59 of my evidence, references to the CRD rule were to provide context and respond to assertions made in several submission, particularly that of the BRDI, in relation to a requirement for each residential activity to achieve a 2000m² minimum site area at Bannockburn. My evidence endeavored to illustrate that that the District Plan and zoning at Bannockburn has moved on from a residential density requirement of 2000m² average minimum lot size, to 1500m² minimum lot size, and that the CRD rule framework contemplates lots even smaller than 1500m² providing the gross site area of 1500m² is achieved.
- 45 That said, paragraph 76 of my evidence is not helpful and incorrect where I summarise the reasons for consent as a consequence of the PC19 rules having legal effect, and I included as reasons for consent the CRD rules LLRZ-12 and

¹⁵ Evidence of Werner Murray at [39-40].

¹⁶ Evidence of Anne Steven at [65].

SUB-R5, and further, also incorrectly transposed Rule SUB-R5 (comprehensive residential development) with Rule SUB-R6 (all other subdivision).

- 46 Rule LLRZ-12.1 and its relationship to companion limbs R12.2 and 12.3 are not drafted as clearly as they could be. Out of an abundance of caution I included the CRD rules and an assessment of Policy LLRZ-P9.
- 47 Therefore, to clarify my view on these matters, I consider that resource consent is not needed under Rules LLRZ-12 and SUB-R5 comprehensive residential development, and nor are these rules triggered by the Application. This is because each residential lot achieves a minimum of 1500m² per residential unit required by density standard LLRZ-S1 and therefore the Proposal complies with Rule LLRZ-R1.

Craig Barr

28 February 2025