

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE
CENTRAL OTAGO DISTRICT COUNCIL**

IN THE MATTER OF

The Resource Management Act 1991 (**RMA** or
the Act)

AND

IN THE MATTER OF

Of the Central Otago Operative District Plan
(**CODP**) and Proposed Plan Change 19 to the
Central Otago District Plan (**PC19**)

AND

IN THE MATTER OF

Application to the Central Otago District
Council (**CODC**) by **D. J Jones Family Trust**
and N.R Searell Family Trust for subdivision
and land use resource consent for residential
subdivision and development at 88 Terrace
Street, Bannockburn (**RC230398**)

**MEMORANDUM OF COUNSEL FOR
D. J JONES FAMILY TRUST AND N.R SEARELL FAMILY TRUST IN RESPONSE TO
BANNOCKBURN RESPONSIBLE DEVELOPMENT INCORPORATED'S REQUEST TO
CALL EVIDENCE FROM AN INDEPENDENT PLANNER**

Dated: 12 February 2025

Presented for filing by:

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D. J JONES FAMILY TRUST AND N.R SEARELL FAMILY TRUST IN RESPONSE TO
BANNOCKBURN RESPONSIBLE DEVELOPMENT INCORPORATED'S REQUEST TO
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TO: the Chair of the Hearings Panel

Introduction

- 1 This memorandum is filed on behalf of D. J Jones Family Trust and N.R Searell Family Trust (**Applicant** or **Trust**) in respect of the Trust's application to the Central Otago District Council (**CODC**) for subdivision and land use resource consent for residential subdivision and development at 88 Terrace Street, Bannockburn.
- 2 Counsel refers to Minute 5 of the Hearing Panel issued on 7 February 2025, which refers to a Memorandum from James Gardener-Hopkins on behalf of submitter Bannockburn Responsible Development Incorporated (**BRDI**)
- 3 The Memorandum from Mr Gardener-Hopkins sets out a request to call evidence from an Independent Planner, Mr Werner Murray. BRDI seeks leave to provide Mr Murray's planning evidence on 21 February 2025.
- 4 The Panel has indicated in Minute 5 that their preliminary view is that there will be no prejudice to the Applicant and that they are minded to grant the request. The Panel has invited the Applicant to respond to BRDI's request.

Applicant's response to BRDI's request

- 5 The Applicant will abide the Panel's decision in relation to BRDI's request. Even so, the Applicant would invite the Panel to consider the following matters.
- 6 BRDI was required to file expert evidence 5 working days prior to the hearing (on 14 October 2024). On 7 October BRDI filed evidence from Ms Steven and Mr Dicey. Subsequently, on 8 October 2024 the hearing was deferred at the request of the Applicant's legal counsel.
- 7 The deferment of the hearing does not alter the factual context, which is that BRDI had ample notice of the hearing date and was well aware of the issues arising in this case. BRDI could have filed expert planning evidence on 7 October but for whatever reason did not. Since then, some 85 working days have passed between 7 October 24 and 7 February 2025, the date of BRDI's request for leave.

- 8 The Applicant is a person directly affected by the proposed waiver of time. It is considered that there is prejudice to the Applicant arising from BRDI's request for the following reasons:
- (a) There is a high level of agreement between the Applicant and the Council planning witnesses as regards the key planning issues arising from the Application;
 - (b) The Applicant is well advanced in case preparation and did not anticipate it would need to respond to further expert planning evidence from BRDI;
 - (c) The BRDI expert planning evidence is likely to raise new and unanticipated issues that will require a response from the Applicant; and
 - (d) The proposed planning evidence is likely to add complexity, difficulty and cost to preparation and presentation of the Applicant's case.
- 9 Should the Panel be minded to grant BRDI's request, the Applicant anticipates that Mr Barr (the Applicant's planning witness) will need to respond to Mr Murray's evidence though the presentation of Mr Barr's evidence at the hearing.

Dated 12 February 2025



Chris Fowler
Counsel for D. J Jones Family Trust and N.R Searell Family Trust