

**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
MINUTE 9**

Dated: 26 February 2025

Presented for filing by:
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**MEMORANDUM OF COUNSEL FOR
D. J JONES FAMILY TRUST AND N.R SEARELL FAMILY TRUST IN RESPONSE TO
MINUTE 9**

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 response to Minute 9.
- 2 Counsel has reviewed the Memo to Commissioners prepared by Kristin Royce, section 42A report writer dated 25 February 2025 which raises various points regarding the evidence of Mr Barr filed on behalf of the Applicant (**Ms Royce's memorandum**).

Mr Barr's initial response to the matters raised in Ms Royce's memorandum

- 3 In preparing this memorandum for filing within the timeframe requested by the Panel, Counsel has received an initial response to the matters raised in Ms Royce's memorandum from Mr Barr, the Applicant's planning witness, which are noted below.
- 4 Mr Barr acknowledges that his evidence is somewhat ambivalent about whether a resource consent is required under LLRZ – P12. Mr Barr has now had opportunity to consider the matter further and advises that in his view the Proposal does not require a resource consent under comprehensive residential development rule LLRZ-P12.
- 5 Rule LLRZ-R12 provides an opportunity for comprehensive residential development through an alternative consenting pathway to that which would otherwise apply under Rule LLRZ-R1 and the related dwelling density standard LLRZ-S1.
- 6 Rule LLRZ-R12 does this by allowing for a range of dwelling densities on larger sites provided that the density across the entire site is no greater than one dwelling per 1500 m². For example, in some areas of the site dwelling density might be well below that required by LLRZ-S1 (i.e. a minimum site area per residential unit of 1500 m²) but this can be offset by larger lots, open space or reserve area elsewhere within the site, so that the overall site density required by LLRZ-R12 is achieved.

- 7 Rule LLRZ-R12 is supported by Policy LLRZ-P9 which provides for a “high density of development on larger sites”, and where development is undertaken in a comprehensive manner in accordance with the subparagraphs within the policy.
- 8 In the present case, the Proposal does not trigger Rule LLRZ-R12 because it complies with all the LLRZ Standards, including density standard LLRZ-S1. Therefore the applicable rule is LLRZ-R1 and there is no need to resort to the alternative consenting pathway provided by LLRZ-R12.
- 9 Mr Barr recorded in his evidence, out of an abundance of caution, that consent is required under LLRZ-R12,¹ and he also considered the matters for discretion at LLRZ-R12(a)-(h)² and assessed the Proposal under related Policy LLRZ-P9.³
- 10 However, for the reasons discussed above, having had opportunity to consider the matter further, Mr Barr does not consider that LLRZ-R12 is triggered by the Proposal because a minimum site area per residential unit of 1500m² is achieved. It follows that the relevant subdivision rule applicable to the Application is Rule SUB-R6.
- 11 All of the above matters will be confirmed, and further clarified in Mr Barr’s Summary of Evidence which the Applicant expects to file this Friday 28 February.

Response to Panel questions arising from Ms Royce’s memorandum

- 12 In light of the above, Counsel can respond to the Panel questions arising from Ms Royce’s memorandum as follows.

Does the applicant agree with Ms Royce’s interpretation of the rules under which resource consent is required, which would indicate that an additional land use consent would need to be applied for?

- 13 The Applicant agrees with Ms Royce’s interpretation of the rules under which resource consent is required, namely Rule SUB-R6.
- 14 As mentioned above, on reflection Mr Barr does not consider that an additional land use consent needs to be applied for because comprehensive residential development Rule LLRZ-12 is not triggered by the Proposal. Further, because each

¹ Mr Barr’s evidence at [76]

² Mr Barr’s evidence at [60]-[61]

³ Mr Barr’s evidence at [92]-[97]

residential lot achieves a minimum of 1500m² per residential lot the relevant subdivision rule applicable to the Application is Rule SUB-R6.

- 15 Ms Royce's memorandum does not state Ms Royce's view about whether Rule LLRZ-R12 is triggered by the Proposal. Nor is this matter canvassed in Mr Murray's evidence. Counsel respectfully suggests that these experts provide their view on this matter at the Hearing.
- 16 In the event that the Panel reaches the conclusion that Rule LLRZ-R12 is triggered by the Proposal (which the Applicant does not support) then, for completeness, the Applicant considers that an application for LLRZ-R12 has in fact been made, and the applicable criteria at LLRZ-R12(a)-(h) and the matters for assessment at Policy LLRZ-P9 have been appropriately addressed through the evidence of Mr Barr.
- 17 Put another way, all the information required by the Panel to assess an application under LLRZ-R12 (if indeed such application is needed) is before the Panel and has been made available to the s42A Report Writer and submitters. No further material or additional information is required.

If Ms Royce's interpretation is correct, what are the implications for the Hearing of this application?

- 18 For the reasons discussed above, there are no implications for the Hearing that arise from Ms Royce's interpretation. Mr Barr and Ms Royce are in agreement that Rule SUB-R6 is the correct subdivision rule.

Subject to the Applicant's response to the above questions, are there any scope issues relevant to the pre-circulated planning evidence of Mr Barr which on the face of it may relate to an application that has not been lodged?

- 19 For the reasons discussed above, there are no scope issues relevant to the pre-circulated planning evidence of Mr Barr because no further application is required under LLRZ-R12. Further, in the event that such an application is required (and the Applicant considers that one is not) then there is no special formality required or a separate application needed. Instead the Panel and other parties can rely on the comprehensive material already filed by the Applicant and the above-mentioned evidence of Mr Barr.

Dated 26 February 2025

A handwritten signature in cursive script, appearing to read 'Chris Fowler', written in dark ink.

Chris Fowler

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