



Queenstown Lakes District Council

**Section 42A Hearing Report
For Hearing commencing 8 August 2016**

Report dated: 22 July 2016

Report on submissions and further submissions

Plan change 51 - Peninsula Bay North

File Reference: Peninsula Bay North S42A

1.	EXECUTIVE SUMMARY	3
2.	INTRODUCTION	3
3.	CODE OF CONDUCT.....	4
4.	SCOPE OF THIS REPORT	4
5.	STATUTORY BACKGROUND	5
6.	THE RESOURCE MANAGEMENT RATIONALE FOR AND PURPOSE OF THE PLAN CHANGE	7
7.	SUBMISSIONS	7
8.	PLANNING HISTORY OF THE SITE	8
9.	ANALYSIS	9
10.	ISSUE 1 - DEVELOPMENT OF THE OPEN SPACE ZONE	10
11.	ISSUE 2 - LANDSCAPE EFFECTS AND SPECIFICALLY DEVELOPMENT OF THE ONL 16	
12.	ISSUE 3 - ECOLOGICAL EFFECTS	19
13.	ISSUE 4 - CONSISTENCY WITH EARLIER PLAN CHANGE PROCEEDINGS AND CONDITIONS OF RESOURCE CONSENTS	23
14.	ISSUE 5 - INCONSISTENCY OF THE PLAN CHANGE WITH PART 2 OF THE RMA AND THE DISTRICT PLAN OBJECTIVES AND POLICIES	24
15.	ISSUE 6 - THE ECONOMIC BENEFITS DERIVED FROM THE CONSTRUCTION OF ADDITIONAL HOUSES AND THOSE DERIVED FROM THE BIKING INDUSTRY	24
16.	ISSUE 7 - THE ADEQUACY OF EXISTING RESIDENTIALLY ZONED LAND IN WANAKA	26
17.	ISSUE 8 - THE OUTWARD SPREAD OF RESIDENTIAL DEVELOPMENT	26
18.	ISSUE 9 - AMENITY EFFECTS ON NEIGHBOURING RESIDENTIAL LAND	26
19.	ISSUE 10 - THE USE OF COVENANTS VS. BESPOKE RULES IN THE DISTRICT PLAN 26	
20.	OTHER ISSUES RAISED	27
21.	RECOMMENDED DECISION AND REASONS.....	28

ATTACHMENTS

Appendix 1.	Recommended revised provisions if the plan change is adopted.
Appendix 2.	List of submission points with recommended decision.
Appendix 3.	Section 32/ 32AA evaluation.
Appendix 4.	Environment Court decision C010/2005
Appendix 5.	Memorandum from Senior Parks and Reserves Planner, Jeannie Galavazi, QLDC
Appendix 6.	Report from Dr Marion Read, Read Landscapes
Appendix 7.	Evidence from Ms Dawn Palmer, Natural Solutions for Nature

1. EXECUTIVE SUMMARY

- 1.1. The conclusion of this evidence is that plan change 51 should be rejected.
- 1.2. In reaching this conclusion I have considered the Request Report and the associated attachments, the amendments to that document dated 7 July 2016, the submissions, and the reports/ evidence of Ms Jeannie Galavazi, Ms Dawn Palmer, and Dr Marion Read. I have undertaken four site visits and undertaken further S 32 and S32AA evaluations.
- 1.3. The reasons for recommending that the plan change be rejected in its entirety are summarised as follows:
 - a. The effects on landscape and visual amenity values from zoning the land as Low Density Residential will be significant and cannot be sufficiently mitigated
 - b. There will be ecological losses (rather than ecological gains) as a result of the plan change proceeding.
 - c. Recreational amenity, now and in the future, will be irreversibly compromised and these effects are not mitigated or outweighed by the various facilities and upgrades that are proposed within the remaining open space zone.
 - d. The intergenerational and irreversible effects of developing this land on landscape and amenity values, ecological values, and the quality of the environment are considered to outweigh the short term and relatively minor and/ or short terms benefits relating to efficient landuse, economic benefits, and employment.
 - e. There is considerable uncertainty regarding i) the future use of this part of the open space zone and its role in the overall open space network and ii) the effectiveness of the proposed rules.
- 1.4. In the event that the panel disagree and determine that the plan change should be adopted in full, recommended revised provisions are attached as **Appendix 1** (Revised Provisions).

2. INTRODUCTION

- 2.1. My name is Victoria Sian Jones. I am a private consultant contracted to the Queenstown Lakes District Council (QLDC) to prepare the S 42A report on Chapter 26 of the PDP. I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Resource and Environmental Planning (first class honours), with a major in economics from Massey University. I have over 21 years planning experience, and have worked as a planner in the Queenstown Lakes district

for over 16 years. During my time in this district, I have held the positions of consent planner, policy planner and various policy and strategy management roles with CivicCorp Limited and the QLDC and have worked as a planning consultant for the last 8 years. Of relevance, during that time, I have been responsible for dozens of variations and plan changes (either as the author or in a management role), including having substantial involvement in Variations 15 and 25 in my role as QLDC's Planning and Strategy Manager.

3. CODE OF CONDUCT

3.1. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. I am authorised to give this evidence on the QLDC's behalf.

4. SCOPE OF THIS REPORT

- 4.1. My evidence addresses the submissions and further submissions received on Plan Change 51 and, in turn, recommends changes to the substance of the plan change and subsequent amendments to the planning maps.
- 4.2. This evidence analyses submissions in order to assist the hearings panel to make recommendations on the plan change. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, or rejected.
- 4.3. Although this evidence is intended to be a stand-alone document and to meet the requirements of s42A of the RMA, the panel are also referred to:
- a. The Request Report¹; and
 - b. The document entitled "Private Plan Change Application Peninsula Bay North Zone Change - Amendments to Plan Change 51 and Associated S32AA Evaluation" (dated 7 July 2016)². This replaces the notified landuse covenant (methodology) with amended District Plan rules and a Structure Plan.
- 4.4. In this evidence, I discuss the issues raised by submitters under broad issue-based headings and then undertake an evaluation of the options under Sections 32 and 32AA. This is attached as **Appendix 3** of this report.

¹ <http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-51-peninsula-bay-north/plan-change-as-notified-pc-51/>

² <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan-Changes/51/Amendments/06-Revised-s32AA-Assmt-PC51-7Jul16-1.pdf>

- 4.5. In preparing this evidence and reaching the conclusions therein, I have read, referred to, and relied on the evidence and reports of the following experts:
- Ms Jeannie Galavazi - Parks and Recreational Planning
 - Ms Dawn Palmer - Ecology
 - Dr Marion Read - Landscape.

5. STATUTORY BACKGROUND

- 5.1. The plan change request report that accompanied the notified plan change and which can be accessed on Council's website³ provides an overview of the higher order statutory and planning documents applicable to the plan change. That report considered the various requirements of the Resource Management Act (RMA) when preparing and considering a plan change and the relevant documents as stipulated by Sections 74 and 75 of that statute. The statutory and non-statutory documents considered in the plan change request report are:
- a. The operative Otago Regional Policy Statement (RPS);
 - b. The Proposed Otago Regional Policy Statement (PRPS);
 - c. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES);
 - d. The Otago Regional Plans relating to water, air, and waste;
 - e. The Kai tahu ki Otago Resource Management Plan;
 - f. Ngai Tahu Ki Murihiku Natural Resource and Environmental Iwi Management Plan;
 - g. The Queenstown Lakes District Growth Management Strategy (2007)
 - h. Wanaka 2020 (2002) and the Wanaka Structure Plan (2007).
- 5.2. While I accept the summaries that are provided in the Request Report, I do not concur with the conclusions reached in respect of whether the plan change will give effect to the RPS.
- 5.3. The Request Report concludes that the plan change gives effect to the RPS and Regional Water Plan and has had regard to the PRPS, other Regional Plans, and management plans and strategies prepared under other Acts. This conclusion is based on opinions that the landscape and amenity values associated with the subject land will be maintained and that ecological and recreational amenity values, will be enhanced as a result of the plan change proceeding as proposed.
- 5.4. As further detailed in my assessment of the submissions, relying largely on the attached expert ecological, landscape, and parks and recreation planning reports and

³ <http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-51-peninsula-bay-north/plan-change-as-notified-pc-51/>

evidence, I do not consider that the proposed plan change will maintain and enhance the respective values of the site. As such, I do not consider that the plan change will give effect to the RPS, as required by Section 75 of the RMA.

- 5.5. Also of significant relevance, Section 74(1)(b) of the RMA requires the Council to prepare and change its district plan in accordance with the provisions of Part 2 of the RMA. While the request report includes an Assessment of Effects, the important relationship between the plan change and the purpose and principles of the RMA is not clearly outlined. As such, the relevance of Part 2 in terms of assessing the plan change is considered further below as well as later in this report, in response to submissions.
- 5.6. Relevantly, one must consider whether the plan change will promote the sustainable management of natural and physical resources, and in doing so, recognises and provides for any relevant matters of national importance and have particular regard to various other matters.
- 5.7. Both Mr Ben Espie (whose landscape report is included with the Request) and Dr Marion Read are of the view that at least part of the proposed rezoning is within an Outstanding Natural Landscape (ONL). As such, any effects from rezoning this part of the site for low density residential development is a matter of national importance pursuant to section 6(b) of the RMA. Therefore whether the plan change is in accordance with the following provision must be carefully considered:

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

- 5.8. Therefore, to be in accordance with Part 2 of the RMA, the plan change must protect the Outstanding Natural Landscape from inappropriate subdivision, use, or development but need not necessarily preserve the Outstanding Natural Landscape. Determining whether the subdivision, use or development of the Outstanding Natural Landscape land as enabled by the re-zoning is appropriate or inappropriate is subjective and relies heavily on landscape expertise. Whereas Mr Espie considers the development enabled to be appropriate, Dr Read does not. This matter is further canvassed in section 11 below.

5.9. The plan change shall also have particular regard to the following relevant Section 7 matters:

- b) the efficient use and development of natural and physical resources:*
- c) the maintenance and enhancement of amenity values:*
- d) intrinsic values of ecosystems:*
- f) maintenance and enhancement of the quality of the environment⁴:*
- g) any finite characteristics of natural and physical resources.*

5.10. In respect of 7c), 7d), 7e), 7f), and 7g) above, the conclusions reached below rely in part on the evidence/ advice of Dr Read, Ms Galavazzi and Ms Palmer. This matter is further canvassed in section 11 below.

6. THE RESOURCE MANAGEMENT RATIONALE FOR AND PURPOSE OF THE PLAN CHANGE

6.1. The resource management rationale behind the plan change is outlined in Section 1 of the request report and can be summarised as being that:

- a. The Peninsula Bay LDR zone is almost fully developed;
- b. The site is within the Wanaka Structure Plan Inner Growth Boundary and the UGB of the Growth Management Strategy and is adjacent to existing LDR land;
- c. The rezoning will increase the range and quality of living options at Peninsula Bay;
- d. The rezoning will enable efficient use of existing infrastructure; and
- e. The Structure Plan and provisions take full consideration of the key constraints of the site.

6.2. The purpose of the plan change as articulated in that report is repeated below for your convenience:

To enable the development of part of the land currently zoned Open Space at Peninsula Bay North for specified low density residential development, while providing for ecological gains and improved passive recreation on the balance of the open space zoned land between the peninsula bay development and Lake Wanaka.

7. SUBMISSIONS

7.1. The plan change was notified on 9 December 2015. The submission period closed on 28 January 2016 and summaries of submissions were notified on 17 March and 22 April 2016. 205 original submissions and 2 further submissions were received on the

⁴ **environment** includes—

- (a) ecosystems and their constituent parts, including people and communities; and*
- (b) all natural and physical resources; and*
- (c) amenity values; and*
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters*

plan change. A total of 216 original points of submission were received. I have read all the submissions and consider them in this evidence under the relevant issues or concerns that they raise.

8. PLANNING HISTORY OF THE SITE

- 8.1. While this is a de novo hearing, given the detailed zoning history of the land subject to the plan change, it is useful to summarise this for the benefit of the panel. The planning history can be summarised as follows:
- a. Variation 15 sought the rezoning of what is now the Peninsula Bay area from Rural General Zone to a special (residential) Zone was rejected by the Environment Court⁵ for a variety of reasons, including the landscape and amenity effects of Areas 2 and 5 and the inconsistency with the District Plan policy relating to compact urban form. The Environment Court decision is attached as **Appendix 4** to this report and the Structure Plan showing these areas is included in Appendix B of the Request Report
 - b. The Council then notified an amended Variation (Variation 25), which zoned Areas 2 and 5 and some additional land to the south of Area 5 as open space and enabled more density within the balance of the zone. This plan change was approved by the Council and resulted in the zoning that exists today. Of note, Plan Change 51 proposes 6 dwellings within what was initially Area 5. Variation 25 initially proposed eleven dwellings within this area as a controlled activity and subject to specific rules.
 - c. Despite the fact that the District Plan⁶ indicates a preference for the use of public access easements rather than the vesting of much of the open space land, at the request of the applicant the Council agreed in November 2006 to vest all the open space zone at Peninsula Bay in Council⁷.
 - d. Resource consent RM060929 approved the overall Outline Development Plan for Peninsula Bay and this (and all subsequent variations to it) includes a condition (11)⁸ requiring the vesting of the open space land as public reserve.

⁵ C010/2005

⁶ Issue 15.1.2(vii) and Objective 15.1.3.6 and the associated policies and explanation

⁷ (emphasis added)

1. That the open space zone resulting from Variation 25 - Peninsula Bay be accepted as recreation reserve administered by the Council.
2. The reserves being vested in accordance with NZS 4404:2004 part 7 and 8
3. The fencing of the side boundaries of the reserve to a maximum height of 1.2m at the applicants expense and that a fencing covenant or consent notice be placed on the titles of the adjoining the lots limiting the height of any fence to no higher than 1.2m.
4. Potable water being provided to the reserve by an individual service lateral.
5. A maintenance period of five years from completion of reserve development.
6. The formation of a walking track to Council's standards, the design of which shall be approved by the Director of Parks prior to construction.
7. That the land vested is accepted in lieu of the reserve land contribution required for the subdivision.

⁸ Condition 11 states:

Part of the open space land has been duly vested in this manner but the vesting of the northern part that is now subject to this plan change has been deferred throughout the stages of the subdivision.

9. ANALYSIS

- 9.1. The RMA no longer requires the S42A report or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.
- 9.2. Many of the submissions canvass more than one issue and, where this is the case, submitters can be assured that their submission has been considered under each of the issues that has been specifically raised in the submission. Other than where unique issues are raised or specific decisions are requested of the Council, the individual submissions are not listed under each issue in the report but an indication of scale is provided such as “a large number of submissions raise concerns relating to the loss of trails...” Rather, you are referred to the table in Appendix 2 to this report to see whether a particular decision requested is recommended to be accepted or rejected.
- 9.3. The following issues have been raised in submissions and form the structure of the following discussion:
- Development of the open space zone/ recreation reserve land
 - Landscape effects and specifically development of the ONL
 - Ecological effects
 - Consistency with earlier plan change proceedings and conditions of resource Consents
 - Consistency with Part 2 of the RMA and the District Plan objectives and policies
 - Economic benefits (derived from mountain biking and those derived from the development of more houses)
 - The adequacy of existing residential land supply
 - The outward spread of residential development
 - Amenity effects on neighbouring res land
 - The use of covenants vs. bespoke rules.
 - Other issues - Erosion, consultation, procedural matters, and precedent issues (Alice).

At the time a subdivision application is lodged to undertake the subdivision indicated on the Peninsula Bay Outline Development Master Plan and approved by resource consent RM060929, the consent holder shall make provision for the Open Space Zone within Peninsula Bay to be vested in Council as public reserve. This vesting shall occur prior to certification of the subdivision in accordance with section 224(c) of the Resource Management Act 1991. This vesting may occur progressively in stages that match the staging of the subdivision.

- 9.4. The bulk of the submissions are broad-based and are the same or very similar in nature. With the exception of submitters 51/152 (the Aspiring Trail Network) (ATN), 51/155 (QLDC), 55/162 (Forest and Bird), and supporting submission 55/137 (Mr Tom Dupont), the remaining submitters seek the complete and unconditional rejection of the plan change. All of those that are in total opposition to the rezoning cite the development of the open space zone/ loss of recreational land as a reason and many of those also raise concerns about landscape effects and ecological effects, along with some more discrete issues.
- 9.5. The submission by ATN is somewhat unusual in that it does not state its position in regard to the rezoning as a whole (preferring to leave it to members to make individual submissions in that regard) but, rather, focuses on the detailed design and provision of recreational amenity it seeks on the remaining open space zoned land in the event that the plan change is approved.
- 9.6. As such, unlike many S42A reports, this report discusses each issue in turn but does not reach any recommendations until section 21, at the end of the report. This section promotes a preferred recommendation (to reject the plan change). However, if, contrary to this recommendation, the panel finds that it is appropriate to approve some extent of rezoning, then an alternative option is provided whereby a considerably reduced area of the open space zone is re-zoned to LDR. Alternatively, should the panel decide that a greater extent of re-zoning is appropriate then you are referred to Appendix 1 of this report, which provides a set of recommended Revised Provisions.

10. ISSUE 1 - DEVELOPMENT OF THE OPEN SPACE ZONE

- 10.1. All but two of the 205 original submitters (being submitter 51/162 (Forest and Bird) and 51/137 (Tom Dupont) cite concerns relating to the development of the open space zone which, pursuant to an existing resource consent decision (RM060929) and a Council resolution dated 24 November 2006, is to be vested as public recreation reserve prior to the Council providing approval for the certificates of title to be issued (224 certification). It appears from my reading of the submissions that this is the primary concern of submitters.
- 10.2. By way of background it is noted that Peninsula Bay has been subdivided in stages over the past 10 years or so and the Council has allowed the vesting of this land as reserve to be deferred until the last stage. The final stage, stage 6b, is currently being developed and is located immediately adjacent to the land subject to the plan change.

- 10.3. In order to assist in considering the effects that allowing the plan change would have on recreational amenity, Council's Senior Parks and Reserves Planner, Jeannie Galavazi has provided a report, which is attached as **Appendix 5**.
- 10.4. Without derogating from the detail contained in that report, I have summarised what I consider to be the key points, as follows:
- a. The plan change would have negative long term impacts on the open space and recreation values (of the subject land and of Wanaka's wider open space network). The areas of greatest concern are proposed Lots 4 - 6, 12, and 20 – 26 due to their impact on views from the trails; and the resulting significant reduction in usable open space area and change in recreational experience, which is characterised by its naturalness and the sense of remoteness it offers.
 - b. The plan change would irreversibly reduce the open space opportunities offered by the existing (13.8 ha) area of open space.
 - c. It is of utmost importance that the existing open space zoning be retained in order to provide maximum potential for informal recreation opportunities to meet the current and future needs of the community.
 - d. Approving the plan change would set a concerning precedent for vesting of reserve land for future staged subdivisions with open space zones.
 - e. The existing open space zoning provides quality informal recreation opportunities and offers the potential for improved track networks in the future and the protection thereof once the reserve is vested with QLDC.
 - f. The Parks Strategy 2002 is currently under review and when the updated version is adopted in late 2016 this will provide direction on how this area should be managed and its current and future role in the context of Wanaka's wider open space network. It is premature to enable the residential development of a large part of this open space without a relevant strategy in place.
 - g. There is no immediate need to upgrade the trails on this land and the existing trails are considered to be meeting the needs of the community. When such upgrades are necessary, this would be undertaken through a concept plan or reserve management plan and in full consultation with the community.
 - h. The area has a high degree of naturalness and provides opportunities for single trail mountain biking tracks, informal walking tracks, and several potential picnicking sites with panoramic views. The area differs markedly to the other reserves already vested within the Peninsula Bay development, which comprise a relatively steep bank adjoining Sticky Forest and a linear grassed reserve(s) that is primarily for stormwater drainage purposes. While they are useful for connectivity these reserves do not provide suitable flat picnicking areas, or any separation or respite from the built environment.

- i. The reduction in usable area limits the ability to provide separate walking and cycle tracks in the area and/ or one-way loop tracks, which could then be narrower and have considerably less impact on ecology and on the natural and remote character of the area.
- j. It is anticipated that this reserve will become increasingly popular, given its close proximity to Wanaka township and the population growth in the immediate neighbourhood and in the wider Wanaka area. It is noted that Sticky Forest is in private ownership and should this area no longer be publically accessible (either partially or completely) the Open Space Zone would likely see increased use. This fact further increases the value of retaining a relatively large undeveloped reserve that is held in public protection
- k. It is anticipated that maintenance costs for informal open space such as this would not exceed \$1,500 per year for weed clearance. It is foreseeable that future additional funding could be made for ecological enhancement and trail maintenance if necessary. Examples of areas that QLDC manage that have retained an informal track network at no additional cost to Council are Jardine Park on Kelvin Heights Peninsula, Queenstown Hill, and Ben Lomond. In these areas QLDC facilitates trails and upgrades primarily through a partnership with the Queenstown Mountain Biking Club and ecological enhancement through partnerships with volunteer conservation groups.
- l. The location of the proposed memorial and the track leading to it raise issues relating to conflict between walkers and downhill mountain bikers and erosion and is far less ideal than the alternative of locating such a memorial in the vicinity of proposed lots 4-6, which would cause no such issues. It is noted that if the plan change proceeds the area currently proposed for the memorial is the only remaining public space that affords panoramic views.
- m. As the proposed formalised/ upgraded walking track will provide access to a variety of users from families to cyclists, the trail will need to be designed to a minimum of Grade 2, under the QLDC Cycle Trail and Track Design Specification (refer Attachment C of Appendix 7); meaning a minimum trail width of 2.0m but generally 2.5m in order to enable dual use (as opposed to the 1.0m wide trail proposed). This creates an inherent tension in that the construction of a Grade 2 trail will require vegetation clearance of 3m to 5m wide and more switch backs (due to the reduced open space zone) and, as such, will have greater effects on landscape and the ecology than envisaged in the Request report.

General submissions

10.5. The bulk of submissions are similar in nature and cite a range of concerns in regard to the loss of 6.11 ha of the approximately 13.8 ha of open space zoned land that was to be vested as reserve. Without derogating from the detail that the submitters themselves may wish to discuss with the panel, the key concerns of the majority of submitters opposing the plan change on recreational grounds are summarised as follows:

- a. The plan change is inconsistent with the open space zone objectives and policies.
- b. The plan change will result in a loss of easily accessible recreational land that provides excellent walking and biking opportunities; is a significant part of the trail network; and is well used by the wider community and visitors. The views afforded by the trails are also noted as important and unique.
- c. Open space is incrementally being reduced by development in Wanaka and trails are limited.
- d. The recreation facilities/ upgrades proposed as part of the plan change would not sufficiently mitigate the effects and many submitters favour retaining the reserve in its current form as opposed to replacing the existing informal trails with a wider gravel track in close proximity to houses, which will offer a markedly different experience.
- e. The plan change will affect existing walking trails, with many stating the plan change will result in the removal of well used tracks. To the contrary, the submission in support of the plan change cites that there will be no effect on existing walking tracks
- f. The plan change will significantly limit recreational access and use, thereby confining and reducing existing and future recreational options possible in the open space area.
- g. The cost savings resulting from reducing the area of open space are likely to be over-stated in the request.
- h. The proposed layout could be greatly improved and additional facilities (e.g. toilet) provided.
- i. The plan change is lacking in detail.
- j. The developer and Council agreed in 2006 to vest the land as public reserve and is now trying to retract from that, which is in bad faith and would set an undesirable precedent if allowed to occur.

Specific submissions

10.6. Submitter 51/155 (QLDC) requests that the plan change be rejected unless it ensures that the reduced open space that will be provided will be commensurate with the scale of the Peninsula Bay subdivision and will be able to provide viable and practical trails.

10.7. Submitter 51/155 (QLDC) requests that the plan change be rejected unless the requestor formally acknowledges that improvements will be provided over and above any development contributions payable.

10.8. Submitter 51/152 (ATN) request that, if the Plan Change proceeds, the following points should be incorporated:

- 1) Relocate the carpark (see map attached to the submission);
- 2)/ 3) Construct a new grade 2 'easy option' bike/ walking track (see map attached to the submission);
- 4) Construct a carpark at the end of Bull Ridge (see map attached to the submission);
- 5) Design the track to the lookout to specifically minimise/ avoid conflict;
- 6) Construct a toilet at the northern-most carpark;
- 7) Ensure the tracks are developed by professionals and in partnership with community groups;
- 8) Develop a footpath on the north-north eastern side of Infinity Drive;
- 9) Construct the new walking track (see map) as a 1.5 m wide track; and
- 10) Construct a suitable grade walking track linking Peninsula Bay to the lakefront (see map attached to the submission).

Responses to submissions

10.9. In response to the general submissions and that of QLDC, having considered the reasons therein, the Request report, and Ms Galavazi's advice, I am of the opinion that the plan change will:

- a. Adversely affect current and future recreational amenity in this vicinity and in the wider context;
- b. Inappropriately and irreversibly limit existing and future recreational opportunities on the land;
- c. Not provide adequate useable land to provide for the rapidly growing number of recreational users and will unreasonably constrain the development of trails and other recreational uses within the reserve.
- d. Result in infrastructure and 'upgrades' which may not be the most desirable outcome if one takes a long term, strategic, community-based approach to the planning of this area;
- e. Increase (rather than decrease) maintenance cost savings given the additional facilities and formalised tracks proposed for the balance land (refer Appendix 3 for detail).

- f. Not be the most appropriate way of achieving the open space zone objectives and policies and this is covered in more detail in section 14 of this evidence and in full in Appendix 3 of this report.

10.10. In reaching these conclusions I note that:

- a. The open space area is widely used by local residents, visitors, and the wider community;
- b. The adequacy of the reserve to provide for residents is not only determined by the size of the reserve but also (and more importantly) by its quality/ function and its ability to meet well defined needs;
- c. While the rezoning does not intrude over the main existing informal walking track, the public currently 'wander' informally over the entire piece of land, including on land now proposed for rezoning.
- d. There is no surety that the maintenance period clause of the November 2006 agreement will be continued and/ or whether it will include maintenance of the toilet and carparks in the event that the vesting agreements are altered to align with the plan change;
- e. A large number of submitters seek in their 'decision requested', that the Council reject the plan change and vest the land as intended. I note for completeness that the decision regarding vesting is beyond the scope of this hearing and as such, no recommendation is made in regard to that matter.

10.11. In response to Submission 51/155 (QLDC), you are referred to Ms Galavazi's Memorandum (Appendix 5) which concludes that, in the absence of an approved concept/ management plan for the reserve and given the effects on character, landscape, and ecological values as a result of upgrading the tracks as proposed, these works are not necessarily positive improvements or desirable. You are also referred to the S32AA evaluation attached as Appendix 3. This concludes that, despite the commitment to undertake the work at no cost to the ratepayer, given that there is no clear need for the works, and that there will be adverse environmental effects and ongoing maintenance costs to Council, there will be no net overall benefit.

10.12. In response to submission 51/155 (QLDC), while no formal confirmation has been received, an email from the requestor's agents, Mitchell Partnerships dated 5 July 2016 confirms that the applicant is agreeable to providing the proposed tracks, carpark, and other mitigation (including the toilet) over and above any development contributions required.

10.13. In response to Submission 51/152 (ATN), I note that points 1, 4, and 6 have been included in the amended Structure Plan (7 July 2016). While the Structure Plan does not require the walking track to be of a certain grade/ width, given the lack of options to

create single use tracks and/ or a loop track due the narrowness of the open space that would remain should the plan change be approved, my understanding is that the Council will require a 2 m wide track in this location regardless of what is shown on the Structure Plan. Points 8 and 10 extend beyond the site and therefore may be beyond the scope of this plan change. Regardless, they have not been addressed further in the requestor's amendments and this should be clarified at the hearing. Point 5 has not been resolved and remains an issue for QLDC and presumably also for ATN. You are referred to Ms Galavazi's memorandum relating to this matter and her preference that if a memorial is to be erected at all, then that it be located in the vicinity of lots 4-6 instead in order to avoid such conflict.

10.14. In support of the submissions which cite how well used this area is and that it offers a unique experience which needs to be retained for this and future generations, I note that the most popular recreation activities for resident New Zealanders include walking, cycling, and jogging/running, with walking being universally the most popular activity for men and women and cycling being in the top 4 activities⁹.

10.15. You are referred to Section 21 of this evidence for the recommendations and a summary of the reasons for it.

11. ISSUE 2 - LANDSCAPE EFFECTS AND SPECIFICALLY DEVELOPMENT OF THE ONL

11.1. In order to assist in considering the effects that the plan change would have on landscape values, Dr Read has provided a report and this is attached as **Appendix 6**.

11.2. Without derogating from the detail contained in that report, I have summarised what I consider to be the key points, as follows:

- a. The whole plan change area is within the Outstanding Natural Landscape (ONL). I note that the requestor's landscape architect, Mr Ben Espie, considers part of it to be within the ONL.
- b. The primary adverse effects relate to the effects on landscape character rather than being simply an issue of visibility and visual amenity.
- c. There will be a significant effect on the natural character and legibility of the site, which is the last part of the Wanaka moraine which still exhibits its natural character.
- d. There will be a moderate effect on the natural context of the Peninsula Bay residential area and the strong character and sense of place that this provides.

⁹ Queenstown Trails For The Future 2015-2025 - A Strategic Plan For The Queenstown Trails Trust

- e. The proposed dwellings, vegetation clearance and planting, and earthworks on proposed Lots 4 - 6 and 13 - 26 will have a significant adverse effect on the character of the lake Wanaka outlet landscape unit.
- f. The proposed dwellings and planting would have visual effects on views from within the Peninsula Bay subdivision (ranging from small to significant, depending on the vantage point).
- g. The visibility of the proposed dwellings on proposed lots 4, 5, and 6 and potentially on Lots 23 and 24 would have a significant cumulative adverse effect on some views.
- h. The rules do not require buildings to be a particular hue and the reflectivity rule on its own will not sufficiently mitigate visual amenity effects on some sites
- i. The planting mandated by the rules and Structure Plan will itself result in adverse landscape effects and there is considerable uncertainty as to the effective/ successful the planting will be.

General submissions

11.3. The bulk of submissions are similar in nature and many cite concerns in regard to effects on landscape values and visual amenity. Without derogating from the detail that the submitters themselves may wish to discuss with the panel, the key concerns of the majority of submitters opposing the plan change on landscape grounds are summarised as follows:

- a. The plan change is contrary to sections 6 and 7 of the RMA; the district wide landscape objectives and policies; and the land's ONL classification.
- b. The contention that the environment has changed (domesticated) such that it now makes the proposed development appropriate is challenged.
- c. It is important that the ONL is protected from development, noting the outstanding natural beauty/ character and naturalness of the area.
- d. The plan change will affect existing views to and from the site.
- e. It is important that a buffer (including the existing kanuka) is maintained between the lake edge and residential subdivision.
- f. The removal of planting would have adverse landscape effects and re-planting would take a long time.
- g. The plan change will result in unsympathetic earthworks and changes in landform.
- h. The land is different to all other developed parts of Peninsula Bay in that it includes an open and elevated ridge top, a significant amount of indigenous vegetation, is part of an identified ONL, and is separated from the Peninsula Bay subdivision by topography; giving it a feeling of remoteness despite its close proximity to urban areas.

- i. The reasons provided in the Environment court decision C010/2005, attached as Appendix 4, which zoned this area as open space, are still wholly relevant.
- j. The submission in support of the plan change cites that developments like this look fantastic.

Specific Submissions

- 11.4. Submitter 51/155 (QLDC) requests that the plan change be rejected unless the Plan change satisfactorily resolves concerns regarding whether the low density residential zoning is appropriate given the landscape sensitivity and proposed management of such effects; and the effectiveness and efficiency of allowing low density residential zoning should the land be shown to be sensitive due to its ecological and landscape values.
- 11.5. Submitter 51/155 (QLDC) also requests that the Plan Change be rejected unless the panel is assured that the effects of the proposed earthworks associated with the subdivision and establishment of the building platforms are acceptable in terms of adverse effects on the ONL, and the effects of the proposed earthworks associated with future development following the subdivision are acceptable in terms of adverse effects on the ONL and do not conflict with the earthworks provisions in the District Plan.

Responses to submissions

- 11.6. In response to the general submissions, having considered the reasons therein, the Request Report, and Dr Read's evidence, I am of the opinion that:
- a. The plan change is contrary to sections 6c and 7b of the RMA and the district wide landscape objectives and policies;
 - b. The plan change would affect a unique ONL that offers a unique experience;
 - c. The receiving environment has not changed to a point where cumulative effects have degraded the landscape to an extent that it no longer exhibits the values it once did; that the effectiveness of the mitigation planting is uncertain; and
 - d. The ONL values will not be adequately protected by the plan change.
- 11.7. In response to the more specific individual submissions, having considered the reasons therein, the Request Report, and Dr Read's evidence, I am of the opinion that:
- a. The low density residential zoning is inappropriate, ineffective, and inefficient given the landscape sensitivity and the inadequacy of the rules that are proposed to manage of such effects.
 - b. The earthworks would reduce the legibility of the landform and have an adverse effect on the character of the outlet landscape, reducing its natural character

11.8. You are referred to Section 21 of this evidence for the recommendations and a summary of the reasons.

12. ISSUE 3 - ECOLOGICAL EFFECTS

12.1. In order to assist in considering the effects that the plan change would have on ecological values, Ms Palmer has provided ecology evidence and this is attached as **Appendix 7**.

12.2. Without derogating from the detail contained in that evidence, I have summarised what I consider to be the key points, as follows:

- a. The Status Quo (i.e. declining the Plan Change) protects the ecological values and is a better way to achieve Part 2 of the RMA.
- b. The Open Space Zone subject to the plan change request contains areas of significant vegetation that can be appropriately managed through retaining the open space zoning and the consequent improved custodial stewardship (involving at least weed control and rabbit control if possible) resulting from the land being vested in the council.
- c. The plan change is not required to maintain the existing connectivity
- d. The plan change will not enhance the site's biodiversity but, rather, will result in a net loss of the present vegetation communities. It will not halt the decline of, enhance, protect, or substantially replace depleted tussock grassland on this site; will result in a reduced area of indigenous vegetation; and does not propose to replace 'like for like' species where clearance and revegetation is proposed
- e. The plan change proposal to introduce species that are not currently (or likely to have been historically) present in this environment is inappropriate.
- f. The landuse covenants (now proposed as rules and a proposed Structure Plan) are inadequate in that:
 - i) Conditions 5 and 7 (proposed Rules 15.2.6.2(a)(v) and (v)¹⁰) should be combined to ensure that all the existing vegetation is retained and that tussock grasslands and kanuka are protected from weeds and any revegetated areas are maintained for a period of 5 years prior to vesting.
 - ii) Condition 6 (proposed Rules 15.2.6.2(a) and 15.2.6.2(a)(iv)) does not specify the exact composition of revegetation and the words 'in general accordance' further reduce the certainty¹¹;

¹⁰ The proposed rules no longer prevent the removal of any existing vegetation from these areas and make no provision for ongoing maintenance or establishment prior to 224c.

¹¹ The rule now proposed no longer refers back to the planting needing to be in accordance with the Structure Plan and it is considered that reliance on rule 15.2.6.2(a) is unclear and potentially ineffective or at least inefficient.

- iii) Condition 7 (Rule 15.2.6.2(a)(iv)) does not require the plantings to have been established in a way that achieves goals 1 - 4 of Dr Bramley's assessment prior to S224c;
 - iv) Condition 13 (now only achieved through text on the Structure Plan and a link to this in Rule 15.2.3.4) only requires weed clearance on the road reserves¹².
 - v) Condition 9 (not addressed through a rule or the Structure Plan) needs to be better clarified.
- g. Monitoring the replanting and its ongoing maintenance on private land is difficult and outcomes would be far more certain if all ecological plantings were on public land.
 - h. Outcomes could be improved by reducing the area of rezoning to lots 1 -12, amending the landscape concept plan, reducing the size of some lots, and restricting amenity planting (of beech etc.) to private allotments and tussock grasslands and shrublands to public land, or by restricting it to lots 7 -12.

General submissions

12.3. The bulk of submissions are similar in nature and many cite concerns in regard to effects on the existing ecology of the site. Without derogating from the detail that the submitters themselves may wish to discuss with the panel, the key concerns of the majority of submitters opposing the plan change on ecological grounds are summarised as follows:

- a. The plan change does not assist the Council to achieve its function outlined in section 31(1) of the RMA, which requires the integrated management of effects, including for the purpose of maintaining indigenous biological diversity (31(1)(b)(iii)).
- a. The plan change will not protect existing significant indigenous vegetation and endangered vegetation and the proposed use of covenants to protect the existing tall vegetation will be unsuccessful given the likely desire of residents to enjoy views and sun.
- b. The plan change is contrary to objective 4.1.4(1) of the District Plan regarding ecological enhancement.
- c. There is a desire to retain the bush, birdlife, and other species.
- d. Ecological restoration/ proposed planting would not provide sufficient mitigation or result in ecological gains.
- e. Simply because the tussock grassland are depleted does not justify development.

¹² The condition (now achieved through the Structure Plan) does relate to the whole site however there is no rule relating to the ongoing control of such plant pests in perpetuity (i.e. through a consent notice on the title)

- f. The site includes a range of indigenous vegetation including short tussock grassland; a community that is acutely to chronically threatened in the Pisa ecological district.
- g. The main purpose for introducing new woody species is for fire protection and screening and is not an appropriate mechanism for improving ecological integrity.

Specific submissions

- 12.4. Submitter 51/137 (Tom Dupont) cites that fact the revegetation will mean that natives are not lost and cites this as one reason for requesting that the plan change be approved.
- 12.5. Submitter 51/155 (QLDC) requests that the plan change be rejected unless it satisfactorily resolves concerns regarding the effectiveness and efficiency of allowing low density residential zoning should the land be shown to be sensitive due to its ecological values.
- 12.6. Submitter 51/155 (QLDC) also requests that the plan change be rejected unless the panel is assured that the proposed planting and ecological restoration a) will provide indigenous biodiversity benefits that compensate or offset the proposed loss of indigenous vegetation, and b) is viable, taking into account the exposed nature of the site from wind, maintenance, irrigation, and pest control.
- 12.7. Submitter 51/162 (Forest and Bird) requests that only proposed lots 7 -12 be re-zoned for residential development subject to strict controls to keep all buildings below the ridgeline and to ensure topsoil and other items are not stored in any other area and no landscape modification occurs in any other area of the ONL or other area designated as 'not for development'.
- 12.8. Submitter 51/162 (Forest and Bird) also requests that strict controls be imposed on what plants are approved for any re-planting/ buffer areas (i.e. allowing only those that would occur naturally in this area).

Response to submissions

- 12.9. In response to the general submissions, relying in part on Ms Palmer's evidence and as reflected in the S32 evaluation attached as Appendix 3, I am of the opinion that:
 - a. The plan change is contrary to Section 7(d) of the RMA and Objective 4.1.4(1) of the District Plan and does not assist the Council to achieve its function outlined in section 31(1) of the RMA.

- b. The plan change will not protect existing significant indigenous vegetation and endangered vegetation and the proposed rules to protect vegetation, particularly the existing tall vegetation, will be unsuccessful due to the lack of enforceability over time and the pressure to trim and remove plants in order to retain or obtain views.
- c. The fact the tussock grasslands are in a depleted state does not make them any less vulnerable to degradation (in fact, quite the opposite), particularly given the species is acutely threatened in this environment¹³.
- d. The proposed planting and ecological restoration will not provide net indigenous biodiversity benefits due to the extent of clearance, the proposed planting mix, and the inadequacy of the rules relating to composition, maintenance, pest control, and the ability to enforce the landscaping/ structure plan in the long term.
- e. The introduction of new woody species serves the purpose of amenity/mitigation planting (and as a fire retardant) and should not be seen as providing positive ecological benefits.

12.10. In response to Forest and Bird's submission that the development of lots 7 - 12 could be developed without adverse ecological effects, while Ms Palmer agrees that this option could result in ecological gains, she still prefers maintaining the status quo for the reasons outlined in her evidence. Also, I note that ecological effects cannot be considered in isolation but, rather, must be considered in conjunction with all other costs and benefits. As such, I consider that, on balance, the option of rezoning lots 7-12 would not be the most appropriate way of achieving the objectives. In the event that the panel were to recommend the plan change for approval then lots 7-12 should be reduced in area, enabling all amenity planting to be undertaken on private land and all ecological restoration to be on public land.

12.11. In response to Forest and Bird's submission that only species that are naturally occurring on the site should be included in the ecological planting, you are referred to Ms Palmer's evidence, which concurs with the submitter. As such, if the panel were to recommend that the plan change be approved (in part or in full), then it would be imperative that the rules and Structure Plan be amended to reflect this.

12.12. In response to Submission 51/137 (Tom Dupont) I disagree with his reasoning and am of the opinion that native vegetation will be lost (in net terms) and that certain native species may not necessarily be replaced at all, depending on the mix that is decided on at the time of planting.

¹³ Pg. 4, Statement of Evidence of Dawn Palmer, 1 June 2016

12.13. In response to Submission 51/155 (QLDC), relying on Ms Palmer's evidence, I am of the opinion that:

- a. the ecological restoration proposed does not provide sufficient benefits which would make low density residential zoning an effective and efficient option for the site, as a whole;
- b. The ecological benefits will not offset the ecological losses; and
- c. The most significant site limitations in terms of the proposed revegetation are likely to be exposure to wind and the dry summer soils, as well as the potential for frost damage to broad leaved species ("green leafy" species). As such, some beech forest associates may be challenging to establish (e.g. fuchsia and wineberry)¹⁴.

12.14. You are referred to section 21 of this evidence for the recommendations and a summary of the reasons.

13. ISSUE 4 - CONSISTENCY WITH EARLIER PLAN CHANGE PROCEEDINGS AND CONDITIONS OF RESOURCE CONSENTS

General submissions

13.1. A large number of submitters raise concerns relating to the inconsistency between the plan change and the findings of the decisions on Variations 15 and 25; the resource consent decision that approved the initial Outline Development Plan (RM060929 and subsequent variations to that); and the Council resolution to accept that all the open space zone (including lot 725, which is the subject of this plan change) be vested in Council. There is a strong message throughout the submissions that the developers should respect and uphold the agreements previously made, as reflected in Variation 25, the conditions of resource consents, and the agreement to accept land in lieu of cash.

Response to submissions

13.2. The requestor contends that the environment has changed to the point that the receiving environment is significantly different to that which was assessed in decisions on variations 15 and 25. I respond to this in sections 10 and 11 of this evidence and in summary note that I do not agree that the values of the site have diminished markedly and that its ability to absorb development of the nature proposed is any greater now than it was then.

¹⁴ Paragraph 54, Statement of Evidence, Ms Palmer, 1 June 2016.

- 13.3. I consider that the process that has occurred (whereby the developer has been allowed to defer the vesting of this part of the open space zone until the final subdivision stage (stage 6c) and has then applied for a plan change, which would require significant changes to those commitments) is undesirable and sets a precedent for the future.
- 13.4. While this background is important for the panel to understand and provides valuable context and case law within which to consider the plan change, as this is a de novo hearing, in my opinion the previous decisions do not bind the panel in any way. While adopting the plan change would then require a variation to RM060929 and the revocation/ amendment to Council's November 2006 resolution regarding vesting, there is no legal impediment to this occurring.
- 13.5. As such, while I entirely understand the submitter's concerns regarding public confidence in the process, in my opinion the plan change cannot be rejected on the basis of inconsistency with previous decisions but rather must be considered afresh in terms of the evidence presented.
- 13.6. You are referred to section 21 of this evidence for the recommendations and a summary of the reasons.

14. ISSUE 5 - INCONSISTENCY OF THE PLAN CHANGE WITH PART 2 OF THE RMA AND THE DISTRICT PLAN OBJECTIVES AND POLICIES

- 14.1. A large number of submitters raise this issue as one reason for requesting that the plan change be rejected.
- 14.2. As outlined in the 32 evaluation attached as Appendix 3 of this report, in my opinion the plan change is not the most appropriate way of achieving the relevant objectives and policies of the District Plan and will not assist the Council in fulfilling its primary function of giving effect to the RMA.
- 14.3. You are referred to section 21 of this evidence for the recommendations and a summary of the reasons.

15. ISSUE 6 - THE ECONOMIC BENEFITS DERIVED FROM THE CONSTRUCTION OF ADDITIONAL HOUSES AND THOSE DERIVED FROM THE BIKING INDUSTRY

- 15.1. Both the requestor and submitter 51/137 (Tom Dupont) cite the fact that enabling a further 26 houses to be built in the Wanaka area will create more employment and contribute to business growth. The requestor does not attempt to qualify the contribution that would be made to the economy during the construction phase.

- 15.2. A number of submitters cite the fact this land makes an important contribution to the bike trail network and that biking attracts visitors and this supports local businesses as one of their reasons for rejecting the plan change.
- 15.3. While inherently difficult to quantify the value of the biking and walking industry to Wanaka's economy and the extent to which this 13.8 ha site will contribute to this over time, some useful statistics relating to the industry generally offer support for my opinion that it would be short-sighted to reduce this area of open space zoned land and that doing so would not assist in providing for long term economic benefits to the community.
- 15.4. The Lakes Wanaka Tourism visitor guide¹⁵ lists biking and walking as two of its top 10 reasons to visit and actively promotes these activities as reasons to come. Visitor surveys conducted by Lake Wanaka Tourism indicate that 20-25% of visitors decide to visit Wanaka knowing that it is a biking and hiking destination and that this influences their decision. To provide some context and an idea of the importance of this industry, the tourist spend in the Wanaka area contributes over \$1,000,000.00 per day to the Wanaka economy (averaged over a 12 month period) and tourist numbers to Wanaka increased by 15.9% over the past 12 months and are projected to continue to grow rapidly¹⁶.
- 15.5. This data is consistent with Tourism New Zealand (TNZ) statistics, which indicate that about one in four visitors participate in a walking or hiking activity (including tramping) during their visit to New Zealand. Those statistics also show that international visitors who walk, hike, and cycle tend to spend more on average (i.e. \$3,600 - \$3,800 per visit to New Zealand) than the average spend of all holiday visitors (which is \$2,500 - \$2,800) and that Wanaka is the 6th most popular region in New Zealand with international walkers/hikers. Looking to the future, cycle-related tourism in New Zealand has experienced more growth in participation by domestic and international visitors than any other outdoor activity in recent years, with about around 4% of international holiday visitors doing some sort of cycling while visiting New Zealand and around half of those participating in mountain biking^{17 18}.
- 15.6. These various figures suggest that cycling and walking-related tourism contributes around \$250,000.00 per day on average to the Wanaka economy and that, given the projected growth in tourism generally and specifically in relation to biking, this is an important consideration. In summary, in my opinion, there are considerable economic benefits to be gained by continually expanding a diverse range of walking and biking opportunities in the Wanaka area.

¹⁵ <http://www.lakewanaka.co.nz/new-zealand/top-10-reasons/>

¹⁶ Personal comment, James Helmore, General Manager, Lake Wanaka Tourism

¹⁷ TNZ cycle tourism market profile, 2013

¹⁸ Queenstown Trails For The Future 2015-2025 - A Strategic Plan For The Queenstown Trails Trust

16. ISSUE 7 - THE ADEQUACY OF EXISTING RESIDENTIALLY ZONED LAND IN WANAKA

16.1. Three submitters raise the issue that there is already adequate residential land in Wanaka and cite this as one of a number of reasons for rejecting the plan change. In my opinion the addition (or not) of 26 dwellings will have a very minor if any effect on the effectiveness or efficiency of the Wanaka housing market and, as such, I do not consider this to be a reason for approving or rejecting the plan change. I also note that necessity is no longer a matter for consideration under S32 of the RMA.

17. ISSUE 8 - THE OUTWARD SPREAD OF RESIDENTIAL DEVELOPMENT

17.1. Submitters 51/ 147 (LAC Property Trustees) and 51/149 (Nick Brasington) raise this as one of their reasons for seeking that the plan change be rejected.

17.2. As outlined in the S32 evaluation attached as Appendix 3, in my opinion the plan change does constitute outward spread/ sprawl and a blurring of the existing distinct urban edge in this location, albeit it that its extent is minor.

18. ISSUE 9 - AMENITY EFFECTS ON NEIGHBOURING RESIDENTIAL LAND

18.1. Submitters 51/ 147 (LAC Property Trustees) and 51/149 (Nick Brasington) raise this as one of their reasons for seeking that the plan change be rejected. I note that these submitters own properties at 57 and 53 Mt Gold Place, respectively.

18.2. Relying in part on Dr Read's report, I am of the opinion that while the amenity of neighbouring land will be affected due to the distance and orientation of 53 and 57 Mt Gold Place from the proposed development, I consider it unlikely that their amenity will be significantly affected.

19. ISSUE 10 - THE USE OF COVENANTS VS. BESPOKE RULES IN THE DISTRICT PLAN

19.1. Submitter 51/155 (QLDC) requests that the plan change be rejected unless concerns can be resolved regarding a) the effectiveness of the covenants to mitigate effects if administered by a 3rd party and b) ongoing issues if Council were to be a party to the covenant. The submission considers that it is not good planning practice to zone the land Low Density Residential (LDR) and then impose strict controls on future property owners over and above the zoning rules and also notes that the request is unclear regarding who the parties of the covenant would be, etc. The submission then goes on to say that the alternative of bespoke rules in the District Plan to acknowledge the sensitivity of the subject land (compared with other LDR zoned land) is also considered undesirable.

- 19.2. In response I note that the amended plan change (7 July 2016) replaces the covenant approach with the insertion of site specific rules in the District Plan and that this fully supersedes the covenant approach proposed at the time of notification. Therefore, the part of the submission raising concerns regarding the use of a covenant has been resolved. Should the panel consider it is an issue that still requires some consideration, I note that I do not support the use of covenants in the manner that was proposed in the notified version of the plan change. I note for completeness that not all of the covenants have been translated into rules or the Structure Plan and the revised provisions (Appendix 1) aim to incorporate those covenants that seem to no longer be included.
- 19.3. Now turning to that part of the submission that is concerned with site specific rules and which seeks that the LDR zone only be applied to areas that are wholly suited to low density residential development without the need for rules to mitigate effects. In response to this, I am of the opinion that it is highly preferable (and most effective and efficient) not to assign a particular zone to land which cannot be developed for that purpose without the addition to complex, site-specific rules.
- 19.4. On this basis, in my opinion and as outlined in the S32 evaluation in Appendix 3, none of the land is appropriate for low density residential development; one of the reasons being that no development is appropriate within the open space zone without the introduction of site specific rules and the ongoing monitoring or resultant consent notices.

20. OTHER ISSUES RAISED

- 20.1. Four submitters raise concerns around **erosion**, both in a general sense and specifically regarding erosion resulting from the removal of trees, as one of their reasons for requesting that the plan change be rejected. In response, I note that Ms Galavazi has concerns about the proposed location of the memorial in part because it is susceptible to erosion.
- 20.2. In my opinion, any works that are likely to exacerbate erosion are likely to add to the ongoing maintenance costs to council (in regard to trails and cleared areas) should be avoided wherever possible. In regard to erosion resulting from the removal of trees, I have no expertise in this field and no expert advice to draw from and so am limited in the opinions I can offer. However, I note that my previous recommendations relating to improving the rules to ensue ongoing maintenance of the replanting for a minimum 5 year period (if the plan change is to be adopted) are relevant in this regard.
- 20.3. Submitter 51/36 (Janet Young) raises a lack of **consultation with key stakeholders** as one of her reasons for requesting that the plan change be rejected. She highlights

that most of the residents who received feedback forms are unable to object due to having signed agreements preventing this.

- 20.4. In response, I note that the submissions that have been lodged are wide spanning and so the inability of Peninsula Bay residents to participate in the process does not limit or narrow the scope of Council's assessment/ decision making. Accordingly, the attached S32 evaluation has considered the potential effects of the plan change on Peninsula Bay residents, regardless of whether they made submissions.
- 20.5. A small number of submitters raised **procedural concerns**, contending that the plan change should not have been accepted in the first place, and that the issue should be resolved as part of the Proposed District Plan process. In response, the decision to accept the plan change for processing was made by Council (and publicly notified on 9 December 2015), it was not appealed, and, in my view, is not something that can now be re-litigated through this process. Furthermore, while the plan change could have been heard in conjunction with similar submissions on the Proposed District Plan, this would have resulted in unreasonable delays as the rezoning hearing is not scheduled until 2017.
- 20.6. Many submitters raise the issue that approving the plan change would threaten the integrity of the Open Space zone and set a **precedent**. In response to this, it seems that the law relating to the precedent effect as it applies to plan change requests is not well developed, in the way that is in relation to resource consent applications. The Panel is directed to two particular cases¹⁹ where precedent was considered in the context of plan changes. Having considered synopses of those cases, I hold the preliminary view that the precedent effect (i.e. concerns that granting a rezoning of the open space area in this location will 'path the way' for similar requests to be approved elsewhere) is unlikely to be a legitimate legal argument or 'adverse effect' in this case. However, having not sought legal advice on this matter, this preliminary view should in no way discourage the requestor or submitters from addressing this matter further in legal submissions or evidence.

21. RECOMMENDED DECISION AND REASONS

- 21.1. Taking into account the submissions, the advice of Ms Galavazi, the request report and the associated S32 evaluation, as well as the findings of the S32/ 32AA evaluation attached to this report as Appendix 3, I am of the opinion that the plan change will not be the most appropriate, effective, and efficient method of achieving the objectives of

¹⁹ Canterbury Fields Management Ltd v Waimakariri District Council [2011] NZEnvC 199 and Bell Farms Ltd v Auckland Council [2011] NZEnvC 37

the District Plan. I therefore recommend that the plan change be rejected, in its entirety and the existing zoning be retained.

21.2. The reasons for the recommendation are detailed in Sections 10-20 of this evidence, the associated S 32/ 32AA evaluation (Appendix 3), and in the expert evidence/ reports attached to this evidence as Appendices 6, 7, and 8). For convenience the key reasons are summarised as follows:

- a. The plan change will not achieve the purpose of the RMA and is not the most appropriate way of achieving the Objectives.
- b. Reducing the open space zoning and developing it for housing as proposed will reduce recreational amenity and limit future opportunities to protect and enhance the land in a manner that meets the recreational and social needs and aspirations of the community.
- c. It is premature to commit to any development/ upgrading of the opens space reserve in the absence of concept or management plan that has been formulated in conjunction with user groups and the wider community.
- d. The rezoning will adversely affect the openness, naturalness, and visual amenity of the ONL landscape.
- e. The rezoning will affect the residential amenity of adjoining residents.
- f. The rezoning will adversely affect ecological values.
- g. The rezoning will not contribute to the long term economic wellbeing of the community, or to long term employment, when compared with the alternative of retaining it as recreational land.
- h. The rezoning (which will result in new facilities and upgraded tracks being vested in Council) is likely to result in increased maintenance costs to Council, at least in the short to medium term, when compared to alternatives.
- i. The rezoning would result in ongoing administration and monitoring costs to landowners and Council as a result of the detailed rules and resultant consent notices in relation to ongoing obligations.
- j. There is considerable uncertainty as to the effectiveness of the rules to achieve the desired ecological and landscape outcomes over the long term.

Recommended Provisions and Plan Framework if the Panel Accept the Plan Change

21.3. While I do not support any of the following options and consider them all to be inappropriate, I have offered the following recommendations should the Panel support the whole or part of the Request. I consider the requested plan change (7 July 2016) to be the most inappropriate and the rezoning of only lots 1-3 the least inappropriate. The only reason for providing these alternatives at all is to assist the panel as much as possible, should they determine that some degree of rezoning is appropriate.

- 21.4. Should the panel, on the information before it, decide to recommend that the full extent of the plan change be adopted, then I recommend that the rules be amended as per the revised version attached to this report as Appendix 1. The Structure Plan would also need to be amended in accordance with Ms Palmer's evidence in relation to Lots 7-12 and the ecological planting/ management and pest control. While, in my opinion, the plan change would still be an entirely inappropriate way of achieving the purpose of the RMA and the relevant objectives, the suggested amendments to the rules would improve it.
- 21.5. Should the panel, on the information before it, decide to recommend that a significantly reduced area (i.e. lots 1 - 3) be rezoned, then I recommend that a small Peninsula Bay North subzone would need to be shown on the planning maps in order to provide a reference for site-specific subdivision rules, which would need to be required in relation to building height and planting in order to mitigate the effects of development. The rules would also need to refer to such restrictions being registered on the titles.
- 21.6. In my opinion, the costs in terms of the effects on the visual amenity of the neighbouring sites; the added cost (inefficiency) of adding a subzone into the District Plan for such a small area and the ongoing monitoring of planting consent notices relating to mitigation planting outweigh the extremely minor benefits, which are limited to the small economic and landuse efficiency benefits from the construction of three additional houses.

Appendix 1. Recommended Revised Provisions if the plan change is adopted

15. Subdivision, Development and Financial Contributions

NOTES AND KEY:

The amendments proposed in the Requested Plan Change are in **red font and underlined**. The amendments proposed through the S42A report, should the panel recommend the plan change be adopted, are in **green font and underlined and struck out**. These amendments are in draft form only and are intended to serve the purpose of highlighting to the Panel that considerable improvements are required. In the event that the plan change proceeds the council requests the opportunity for conferencing in order to assist the Panel to further refine the rules.

Only those pages where amendments are proposed by the plan change are shown in this revised chapter and so it should be read alongside the requestor's version to obtain a comprehensive understanding of the chapter as a whole.

The Structure Plan has not been amended in this version and the recommended amendments relate to the text only.

15.1 Issues, Objectives and Policies

15.1.1 Introduction

The Act distinguishes subdivision as a category of activity distinct from land use activities. The control of subdivision is a specific matter of relevance to District Plans. The principal feature of subdivision is that it produces a framework of land ownership which provides the basis for land use development, activities and conservation. Subdivision and land use are, therefore, closely related.

Subdivision provides the framework of service provision for land use including roading, water supply, sewage treatment and disposal, energy, telecommunication, stormwater and trade waste. Subdivision is the mechanism for the provision of esplanade reserves, esplanade strips and access strips and is therefore significant in the context of providing public access to lakes and rivers. Subdivision is also a means by which provision is made for additional land and facilities to meet the open space and recreation needs of the District's residents and visitors.

15.1.2 Issues

i Site Suitability

The underlying objective is to ensure that the lots created by subdivision are suitable for the anticipated use, that the land is of a suitable size and shape, is able to be serviced and developed and it is not subject to any unacceptable man-made or natural hazard.

ii Future Land Uses

There is an expectation by land purchasers that many of the effects of anticipated land uses will have been examined before a new land parcel is allowed to be created by way of subdivision. This includes the framework of services, reserves, access, water supply, stormwater disposal and sewage treatment and disposal. It also includes the effects on landscape, cultural or amenity values of the density and character of development that is likely to result from the subdivision pattern.

iii **Costs of Infrastructure**

Development facilitated by subdivision increases demands on the infrastructure of the District. New development will be subject to assessment in accordance with Council's Long Term Community Plan Development Contributions Policy to ensure that developments contribute to the cost of infrastructure associated with that demand.

iv **Land subject to Natural Hazards**

The opportunity may arise to subdivide and develop land which may be subject to natural hazards. This may require significant infrastructure works. Where land, or any structure on that land, is likely to be subject to damage by erosion, subsidence, or inundation from any source, the Act provides that the Council shall not grant a subdivision consent unless the effects can be avoided, remedied or mitigated. The suitability of land for future development in terms of susceptibility to natural hazards needs to be considered at the stage of subdivision.

The Council has identified the Makarora Rural Lifestyle Zone as one such area where development may occur at low densities subject to avoiding, remedying or mitigating the effect of natural hazards.

v **Environmental Considerations**

Where appropriate, the Council can secure the protection of environmentally sensitive sites, sites of significance to all cultures, or the margins of lakes and rivers, by way of esplanade reserves or conservation covenants, bonds or other such effective techniques at the time of subdivision. Subdivision also provides the opportunity to provide public access to and along lakes and rivers, and to obtain areas of land for public open space and recreation.

[Pages omitted from this version]

Objective 22 Peninsula Bay North Low Density Residential Zone

Low density residential development at Peninsula Bay North:

- a) enhances and where appropriate, protects areas of significant indigenous biodiversity, including by specifically protecting and enhancing the existing kanuka and short tussock grasslands.
- b) protects the visual amenity values, openness, and natural character associated with the Outstanding Natural Landscape;
- c) enables people to access land for passive and active recreation.

Policies

- 1.1 Development within Peninsula Bay North Low Density Residential Zone shall be generally in accordance with the Structure Plan, in particular the identification of ecological enhancement areas, connections to the adjacent open space zone, building platform locations and building heights.

15.1.4 **Environmental Results Anticipated**

- (i) A safe and efficient roading network.
- (ii) Safe, convenient access to and from subdivided lots.
- (iii) Enhanced and extended patterns of vehicular, cycle and pedestrian linkages.
- (iv) Water supplies which are sufficient in volume and of potable quality to meet reasonable needs and future expectations.
- (v) Adequate, safe and sustainable disposal of stormwater, sewage and trade wastes.
- (vi) Retention and enhancement of natural drainage systems.
- (vii) Adequate provision for energy supplies and telecommunications.
- (viii) Maintenance of the quality of the environment, particularly water and natural ground features.

- (ix) Cost effective provision of services for redevelopment and growth without additional financial burdens on District ratepayers.
- (x) Continued provision of esplanade reserves or strips, in appropriate locations, where enhancement of habitats and/or access can be achieved.
- (xi) A pattern of subdivision complementary and appropriate to the character of the land uses in the area concerned.
- (xii) A pattern of subdivision consistent with planned density, roading patterns and open space requirements appropriate in existing and proposed residential environments.
- (xiii) Increased innovation in subdivision design and protection of significant trees or features.
- (xiv) Avoidance of potential risk from flooding, erosion, rockfall or subsidence.

15.2 Subdivision, Development and Financial Contributions Rules

15.2.1 Statement

Control of the subdivision of land is one of the functions of a territorial authority. The subdivision of land cannot take place unless authorised by a rule in the Plan or a resource consent. The subdivision of land for purposes of land tenure can have effects on land use expectations and is the framework for the provision of services to future activities.

15.2.2 General Provisions

15.2.2.1 Definition of Subdivision of Land

Subdivision of land has the same meaning as in section 218 of the Act.

15.2.2.2 Relevant Sections of the Act

All applications are subject to Part VI and X of the Act, with particular reference to sections 104, 105, 106, 108, 219, 220 and 230-237G.

15.2.2.3 Legal Road Frontage

Section 321 of the Local Government Act 1974 shall apply to all subdivisions.

15.2.2.4 Regional Council Requirements

Attention is drawn to the need to obtain relevant consents from the **Otago Regional Council** relating to matters such as, water supply, stormwater and sewage disposal, earthworks, vegetation clearance and structures in the beds of lakes and rivers. It may also be necessary to obtain approval from other relevant agencies.

15.2.2.5 Transit New Zealand Requirements

Attention is drawn to the need to obtain a notice of consent from the Minister of Transport for all subdivisions on state highways which are declared Limited Access Roads. See Appendix 1A of the District Plan for sections of state highways which are LAR. Transit New Zealand should be consulted and a request made for a Minister's notice under section 93 of the Transit New Zealand Act 1989.

15.2.2.6 Non-Notification of Applications

- (i) Any application for resource consent under the Subdivision Rules for Controlled Subdivision Activities and Discretionary Subdivision Activities where the exercise of the Council's discretion is limited, need not be notified and the written approval of affected persons need not be

obtained. If the Council considers special circumstances exist it may require the application to be notified.

- (ii) Prior to any application for resource consent being processed under Rule 15.2.10.2(i) on a non-notified basis pursuant to section 94(2) of the Resource Management Act 1991 written approval of the Otago Regional Council must be provided to the Queenstown Lakes District Council.
- (iii) Prior to any application for subdivision within 32m of the centreline of the Frankton – Cromwell A 110kV high voltage transmission line traversing the Shotover Country Special Zone being processed on a non-notified basis the written approval as an affected party is required from Transpower New Zealand Limited.

15.2.2.7 Joint Hearings

Any land use consent application arising from non-compliance with rules in this Plan as a result of a proposed subdivision shall be considered jointly with the subdivision consent application. In some circumstances consideration of a resource consent application may require a joint hearing with one or more additional consent authorities.

[\[Pages omitted from this version\]](#)

- (b) The ability for maintenance and inspection of the transmission line, including ensuring access;
- (c) The extent to which the design and development will minimise risk or injury and/or property damage from the transmission line;
- (d) The extent to which potential adverse effects from the transmission line including visual impact are mitigated, for example through the location of building platforms and landscape design;
- (e) The location of any building platforms;

- (f) Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001)

15.2.3.4 Non-Complying Subdivision Activities

- (i) Any subdivision which does not comply with any one or more of the Zone Subdivision Standards shall be a **Non-Complying Subdivision Activity**.
- (ii) The further subdivision of any allotment, including balances, that had previously been used to calculate the average allotment size under Rule 15.2.6.3(ii).
- (iii) The subdivision of a residential flat from a residential unit.
- (iv) Any subdivision within an Open Space Zone, further to the subdivision pursuant to 15.2.3.2 (ii).
- (v) **Peninsula Bay**
 - i Any subdivision within the Low Density Residential Zone of Peninsula Bay prior to the establishment of the Open Space Zone and public access easements throughout the Open Space Zone pursuant to a subdivision approved under Rule 15.2.3.2.(ii).
 - ii Any subdivision within the Peninsula Bay North Low Density Residential Zone that is not in accordance with an approved Outline Development Master Plan or the Peninsula Bay North Structure Plan.
- (vi) **Kirimoko Block**
Any subdivision that is not in general accordance with the location of the principal roading and reserve network contained within the Kirimoko Structure Plan shown on Page 7-59 shall be a Non-complying Activity.
- (vii) Any subdivision of land zoned Low Density Residential Zone on the Kirimoko Block prior to a walkway being constructed to QLDC Standards from Aubrey Road to Peninsula Bay and an easement in gross for such a walkway being registered against all servient titles.

- (viii) Kirimoko Block – Wanaka: Any subdivision of land zoned Rural General proposed to create a lot entirely within the Rural General Zone, to be held in a separate certificate of title.
- (ix) Kirimoko Block – Wanaka: Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP 304817 (and any title derived therefrom) that creates more than one lot which has included in its legal boundary land zoned Rural General.
- (x) In the Ballantyne Road Mixed Use Zone subdivision shall be a **Non-complying** Activity when it is not in accordance with an Outline Development Plan approved pursuant to Rule 12.24.3.2 i

If none of these rules (vi – ix) are offended by the subdivision proposal then it is restricted discretionary in accordance with Rule 15.2.3.3 (vii)
- (xi) **The Three Parks Zone** - Any subdivision which is not in accordance with an approved Outline Development Plan or Comprehensive Development Plan.

[\[Pages omitted from this version\]](#)

Note: The intention of this rule is to ensure that an Outline Development Plan or Comprehensive Development Plan is submitted and approved prior to a subdivision consent being applied for.

- (xii) **The Three Parks Zone** – Any subdivision which is not in accordance with the Three Parks Structure Plan, unless a variation has been

Zone	Average
Quail Rise Zone Activity Area R1	1500m ²

v Boundary Planting – Rural Residential sub-zone at Bobs Cove

Within the Rural Residential sub-zone at Bobs Cove, where the 15 metre building Restriction Area adjoins a development area, it shall be planted in indigenous tree and shrub species common to the area, at a density of one plant per square metre; and
Where a building is proposed within 50 metres of the Glenorchy-Queenstown Road, such indigenous planting shall be established to a height of 2 metres and shall have survived for at least 18 months prior to any residential buildings being erected.

vi Shotover Country Special Zone – Park and Ride Facility

Areas developed as part of any park and ride facility shall vest in Council as Local Purpose Reserve (car parking).

15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions

Any subdivision of land that does not comply with any one or more of the following Zone Standards shall be a **Non-Complying Subdivision Activity**.

i Lot Sizes

- (a) No lots to be created by subdivision, including balance lots, shall have a net area less than the minimum specified for each zone in the Table below, **except** as provided for in (c), (d) and (e) below.

Zone	Minimum Lot Area
Rural Residential (excluding Rural Residential sub-zone at Bob's Cove)	4000m ²
Rural Residential at Bob's Cove sub-zone	No minimum – Controlled Activity Provided the total lots to be created by subdivision (including the balance of the site)

	within the zone) shall have an average of at least 4000m ²
In the Ferry Hill Rural Residential sub-zone	4000m ² – with up to a maximum of 17 rural residential allotments
Rural General	No minimum discretionary activity
Hydro Generation	No minimum – Controlled Activity
Gibbston Character	No Minimum – Discretionary Activity
Rural-Lifestyle	In all Rural Lifestyle Zones (except the Makarora Rural Lifestyle Zone): 1 ha provided that the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares In the Makarora Rural Lifestyle Zone the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares.
Resort	No Minimum – Controlled Activity
Rural Visitor	No Minimum – Controlled Activity
Remarkables Park	Activity Area 1 600m ² Activity Areas 2a-8 – No Minimum controlled activity

[\[Pages omitted from this version\]](#)

- (d) Plan. The condition shall be subject to a consent notice that is to be registered and deemed to be a covenant pursuant to section 221(4) of the Act.

vii The creation of rear sites in the Three Parks Zone

- (a) In any subzone other than the MDR subzone, no more than 10% of all sites shown on a subdivision scheme plan may be “rear sites”; and

- (b) In the MDR subzone, there shall be no rear sites shown on a subdivision scheme plan; provided that
- (c) Any rear sites resulting from the subdivision of an existing building shall not be deemed to be ‘rear sites’ for the purpose of either standard 15.2.6.3 (vii)(a) or 15.2.6.3 (vii)(b).

Note: Refer Section D for a definition of ‘rear site’.

viii The creation of rear sites in the Industrial B Zone

No more than 10% of all sites shown on a subdivision scheme plan may be “rear sites”; except that

- (a) Any rear sites resulting from the subdivision of an existing building shall not be deemed to be ‘rear sites’ for the purpose of standard 15.2.6.3.

Note: Refer Section D for a definition of ‘rear site’.

ix In the Industrial B Zone, any application for subdivision within the fixed open space areas identified on the Connell Terrace Precinct Structure Plan prior to 70% of the western boundary planting in combination with the mounding having reached a minimum combined height of 6 metres and a continuous screen in the horizontal plane

x Within the Connell Terrace Precinct of the Industrial B Zone, any application for subdivision of the Special Use Area A from the adjoining open space area.

xi Subdivision or development within Peninsula Bay North - Wanaka

- (a) Any subdivision or development at Peninsula Bay North shall be in general accordance with the Structure Plan attached as Figure [insert figure number] below and shall be subject to the following:

- (i) Buildings, other than garden sheds, retaining walls or other garden structures or fences less than 3m in height, including

- any walls or solid fences greater than 2 m in height¹ shall not be established outside of the building platforms shown on the Peninsula Bay North Structure Plan;
- (ii) Buildings shall not exceed the building height restrictions shown on the Peninsula Bay North Structure Plan. Where a building platform reduced level is specified, the height of buildings contained within the allotment shall be measured from the specified reduced level, otherwise the predevelopment level shall apply;
 - (iii) No Exterior cladding (including roofing)² on any building shall have a reflectivity value of not less than 5% and no greater than 30%³ and shall be in the range of greys, greens, and browns;
 - (iv) Revegetation areas shown on the Peninsula Bay North Structure Plan shall be planted in accordance with that Structure Plan prior to s224c certificates being issued for the relevant subdivided Lots.
 - (v) No vegetation shall be removed from the vegetation protection areas shown on the Peninsula Bay North Structure Plan unless diseased or dead⁴,
 - (vi) Should any plants within the vegetation protection or revegetation areas shown on the Peninsula Bay North Structure Plan die, become diseased or fail to thrive they shall be replaced by the same species or if a species has failed to thrive despite adequate care, then it shall be replaced by another species listed on the Structure Plan for that area. Planting shall occur during the next planting season.
 - (vii) All land, including residential sites, public and privately held reserve land and private and public roading shall be kept free of Pinus, Pseudotsuga, and Cytisus plant species⁵.
 - (viii) Fencing as shown on the Peninsula Bay North Structure Plan shall be limited to post and wire.
 - (ix) Prior to any dwelling-residential unit being constructed on the relevant allotment site,⁶ earthworks shall be established as per the Peninsula Bay North Indicative Earthworks Plan attached as Figure [insert Figure number].
 - (x) Residential activity shall be restricted to a maximum of one residential unit per allotment shown on the Peninsula Bay North Structure Plan and shall not exceed 26 residential units in total.
 - (xi) Only [species that are naturally occurring on the site] shall be planted in those areas shown as 'existing vegetation to be planted' on the Structure Plan.
- (b) The conditions set out in (a)(i) to (vii)-(xi) shall be subject to a consent notice that is registered on the respective titles and is deemed to be a covenant pursuant to section 221(4) of the Act.

¹ No Scope exists to add this exemption - such buildings were not exempt in the notified land covenant and the effect of these has not been assessed, The inclusion of walls and solid fences over 2 m in height is simply for clarification as these are included in the definition of building regardless but can result in interpretative difficulties.

² No Scope exists to remove this and it is clearer to explicitly state as was done in the notified land covenant.

³ Consistent with the LRV proposed in the PDP

⁴ No scope exists to remove this from the notified version (it was included in the land covenant). Stating it on the Structure Plan does not provide long term certainty.

⁵ No scope exists to remove this from the notified version (it was included in the land covenant). Stating it on the Structure Plan does not provide long term certainty.

⁶ 'Site' and 'residential unit' are defined terms in the District Plan

Note; A subdivision or development shall be deemed to be in “general accordance with the Structure Plan” provided the following parameters are complied with:

- a) The site boundaries may be moved up to xx m⁷ in either direction
- b) The building platforms shall not be moved
- c) The centreline of the proposed walking track may be moved up to xx m in either direction
- d) The revegetation areas may be moved up to xx m in any direction provided the area within each lot is not reduced.
- e) All carparks shown as indicative shall be provided generally in the location shown on the Structure Plan

15.2.6.4 Assessment Matters for Resource Consents

In considering whether or not to grant consent or impose conditions in respect to lot sizes and dimensions, the Council shall have regard to, but not be limited by, the following assessment matters:

i Lot Size and Dimensions

- (a) Whether the lot is of sufficient area and dimensions to effectively fulfil the intended purpose or land use, having regard to the relevant standards for land uses in the zone;
- (b) Whether the lot is of sufficient size, given the nature of the intended development and site factors and characteristics, for on-site disposal of sewage, stormwater or other wastes to avoid adverse environmental effects beyond the boundaries of the lot.
- (c) Whether the proposed lot is of a suitable slope to enable its safe and effective use for its anticipated purpose or land use, having regard to the relevant standards for land uses in the Zone.

⁷ These distances are anticipated to be very minor but should be defined in order to make the rule sufficiently certain.

- (d) The relationship of the proposed lots and their compatibility with the pattern of the adjoining subdivision and land use activities, and access.
- (e) Whether the lot is to be amalgamated and included in the same Certificate of Title with an adjoining parcel of land.
- (f) Whether there is the opportunity to enable the protection or restoration of a listed or non-listed heritage item or site which is considered to be of sufficient merit for its preservation or protection to be promoted in the context of a particular development.
- (g) In the Rural Residential zone at the north of Lake Hayes, whether and to what extent there is the opportunity to protect or restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes.
- (h) Within the Shotover Country Special Zone, whether and the extent to which the lot size:
 - (i) Can be achieved without undermining or adversely affecting desirable urban outcomes promoted by the relevant Outline Development Plan.
 - (ii) Will achieve greater efficiency in the development and use of the land resource.
 - (iii) Will assist in achieving affordable or community housing.
 - (iv) Can be adequately serviced without adverse effect on infrastructural capacity.
 - (v) Will achieve residential amenities such as privacy and good solar orientation.
 - (i) With regard to proposals that breach one or more zone standard(s), whether and the extent to which the proposal will facilitate the provision of a range of Residential Activity that contributes to housing affordability in the District.

15.2.7 Subdivision Design

15.2.7.1 Controlled Subdivision Activities - Subdivision Design

[\[Pages omitted from this version\]](#)

Peninsula Bay North – Wanaka

Structure Plan - 05 July 2016

Species for Revegetation

E Exposed to sun, frost and wind

Carmichaelia petriei
Coprosma intertexta +
Coprosma rugosa
Corokia cotoneaster
Fuscopora cliffortioides
Griselinia littoralis
Hebe salicifolia
Leonohebe cupressoides
Meliccytus alpinus
Oleaia avicennifolia
Oleaia hectorii
Phormium cookianum
Phyllocladus alpinus
Pittosporum tenuifolium +
Plagianthus regius
Orianochloa rigida
Orianochloa macra
Kunzea species +

S Sheltered amongst kanuka, shady

Aristotelia serrata +
Coprosma lucida +
Fuchsia excorticata +
Fuscopora fusca
Hoheria glabrata
Pococarpus laetis +
Pseudopanax colensoi +
Sophora microphylla
Coprosma propinqua +
Coprosma intertexta +
Coprosma crassifolia +
Coprosma virens +
Carmichaelia petriei
Oleaia linata
Teuclidium panivolum
Kunzea species +

A Alpine Grassland

Hebe subalpina
Muhlenbergia australis
Teuclidium panivolum
Festuca novae-zelandiae
Anthosachne solandri
Poa colensoi
Poa cita

K Kanuka

Kunzea species +

Maintenance

Revegetation areas must be heavily mulched with wood chip to suppress weeds and contain moisture. Planting must occur in spring to allow two growing seasons of establishment before onset of winter. Plant holes shall be well-worked with added slow-release fertilizer and compost. Deep irrigation shall be provided for at least the first five years to allow for strong plant establishment.

Sourcing

¹ Gender dimorphic species stock shall be sourced from seed (not cuttings) so as to produce fertile seed from male and female plants.
² Locally eco-sourced plants shall be used where available.
 Plant density of 1 plant per 1.5m² (1m² preferred to allow for plant mortality).

Clearance

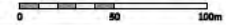
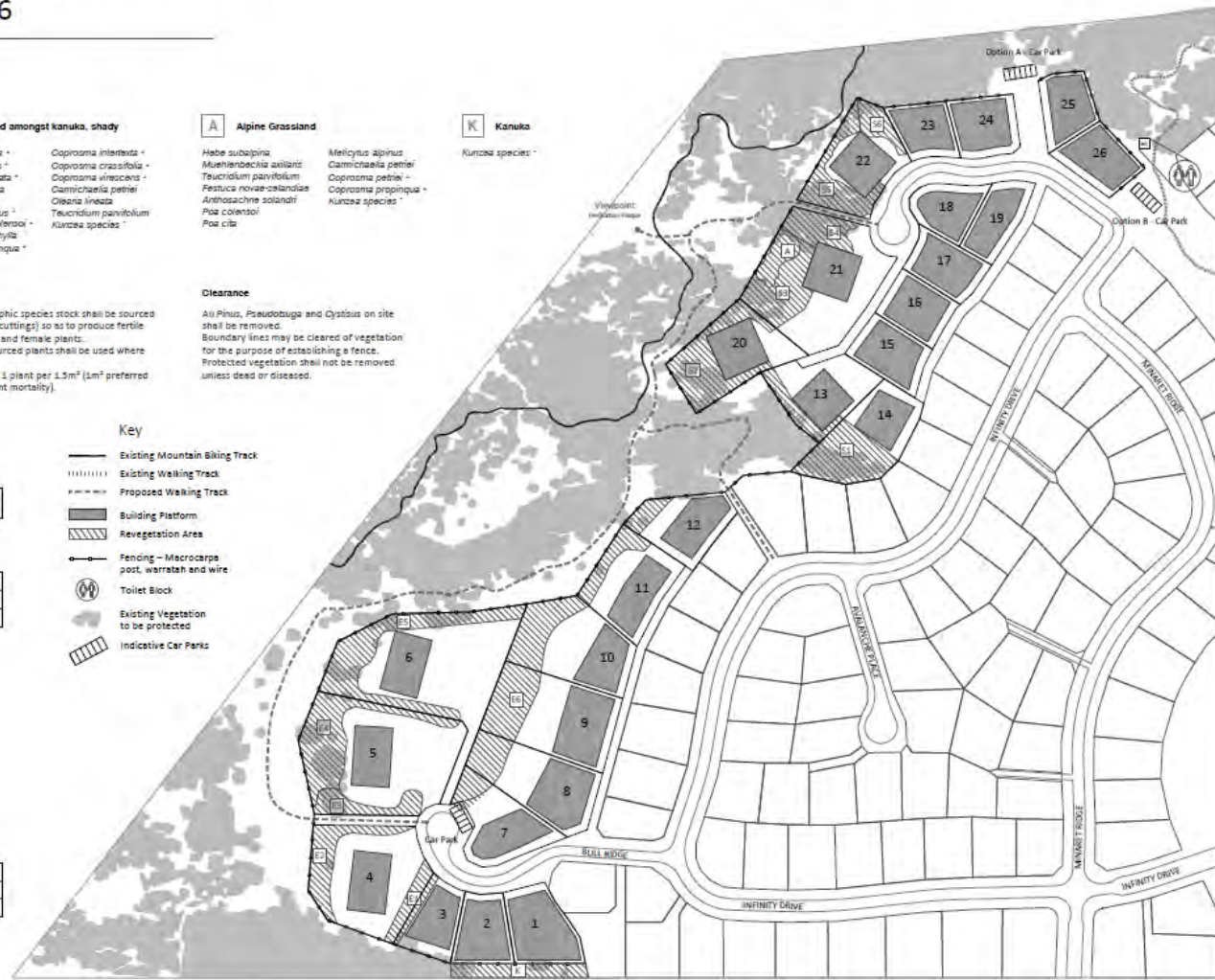
All *Pinus*, *Pseudotsuga* and *Quercus* on site shall be removed.
 Boundary lines may be cleared of vegetation for the purpose of establishing a fence.
 Protected vegetation shall not be removed unless dead or diseased.

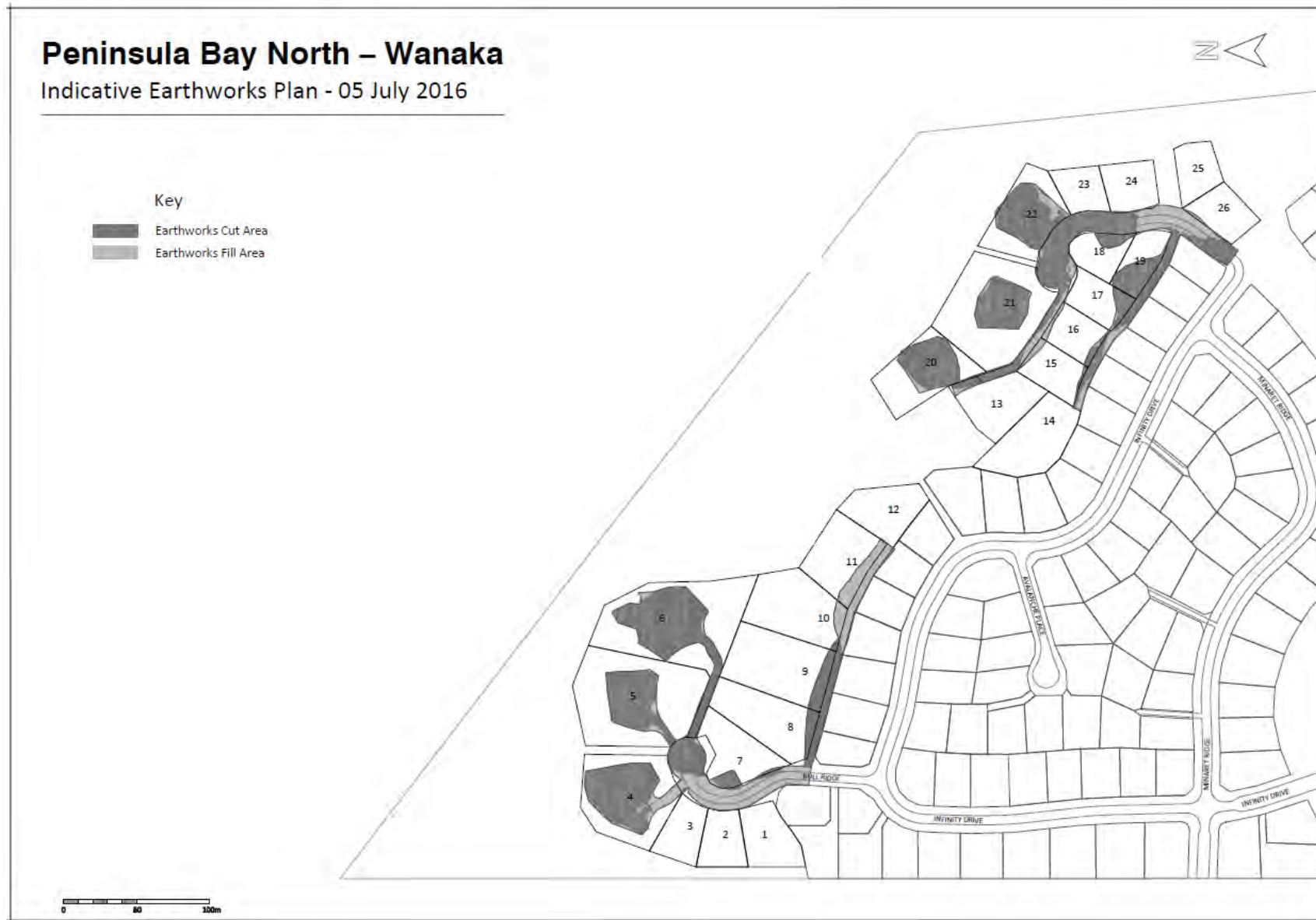
Building Platform Height Restrictions

Lot No.	Building Platform Area	Building Height	Building Platform Level (MSL)
1	1100m ²	5.0m	
2	820m ²	5.0m	
3	500m ²	5.0m	
4	700m ²	5.0m	328.9m
5	700m ²	4.0m	330.7m
6	700m ²	4.0m	331.1m
7	660m ²	5.0m	
8	850m ²	5.0m	
9	880m ²	5.0m	
10	590m ²	5.0m	
11	650m ²	5.0m	
12	700m ²	5.0m	
13	600m ²	5.0m	
14	600m ²	5.0m	
15	780m ²	5.0m	
16	720m ²	5.0m	
17	730m ²	5.0m	
18	830m ²	5.0m	
19	640m ²	5.0m	
20	700m ²	5.0m	337.0m
21	700m ²	5.0m	339.8m
22	700m ²	5.0m	335.5m
23	660m ²	5.0m	
24	780m ²	5.0m	
25	700m ²	5.0m	
26	780m ²	5.0m	

Key

- Existing Mountain Biking Track
- Existing Walking Track
- Proposed Walking Track
- Building Platform
- Revegetation Area
- Fencing – Macrocarpa post, warratah and wire
- Toilet Block
- Existing Vegetation to be protected
- Indicative Car Parks





Appendix 2. List of Submitters and Recommended Decisions

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/01	Richard and Katherine Geeves	Oppose	Not consider any encroachment into untouched lakeside land as part of any residential expansion in/ around Wanaka	Accept
FS51/206-2	Peninsula Bay Joint Venture		Oppose this submission. Approve the plan change.	Reject
51/02	Raewyn Calhaem	Oppose	Reject the Plan Change in its entirety	Accept
FS51/206-3	Peninsula Bay Joint Venture		Oppose this submission. Approve the plan change.	Reject
51/03	Raymi Hurtado Stuart	Oppose	Turn these areas into protected public parks and oppose the development of this 6 ha of land	Accept
51/04	Karen Eadie	Oppose	Not approve the proposed Plan Change Require the developer to abide by the original conditions of consent	Accept
51/05	Joanna Ashe	Oppose	Preserve the ONL areas and require Infinity to respect their previous engagement to preserve Lot 920 DP 486039 as a buffer between development and the lake	Accept
51/06	P Marasti	Oppose	Preserve the ONL areas and require Infinity to respect their previous engagement to preserve Lot 920 DP 486039 as a buffer between development and the lake	Accept
51/07	Andrew Cornish	Oppose	That council look at the long term and realise that mountain biking brings visitors to towns.	Accept
51/08	Eddie Spearing	Oppose	Reduce the area of land being requested to be rezoned to exclude any area already identified in Plan Change 15 (in order to protect the whole section overlooking the lake) and make the whole north end of Peninsula bay a reserve to stop building encroachment.	Accept
51/09	Jen Cornish	Oppose	Oppose Plan Change 51 and not allow it	Accept
51/10	Jamie Greenway	Oppose	Say "no" to the developer, grow the asset, and listen to the community	Accept
51/11	Oliver William Young	Oppose	Reject Plan Change 51 due to the lack of integrity of the developer and adverse effects on an area of natural beauty	Accept
FS51/206-4	Peninsula Bay Joint Venture		Oppose this submission. Approve the plan change.	Reject
51/12/01	Julian Hayworth	Oppose	Decline Plan Change 51 in its entirety and the POS zone and retain its boundaries as per the Operative District Plan	Accept
FS51/207-1	Richard Leslie Hutchison		Support the submission in totality. The whole plan change should be disallowed	Accept
FS51/206-5	Peninsula Bay Joint Venture		Oppose this submission.	Reject
51/12/02	Julian Hayworth	Oppose	Resolve the issue as part of the Proposed District Plan process	Reject
FS51/207-2	Richard Leslie Hutchison		Support the submission in totality. The whole plan change should be disallowed	Accept
FS51/206-6	Peninsula Bay Joint Venture		Oppose this submission.	Accept
51/13	Krystyna Glavinovic	Oppose	Deny the Plan Change and retain the open space zoning	Accept
51/14	Caroline Cavanagh	Oppose	Retain the open space zoning of the Sticky Forest area	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/15	Richard Johnston	Oppose	Reject Plan Change 51	Accept
51/16	John Cruickshank	Oppose	Against Plan Change 51	Accept
51/17	David Jongsma	Oppose	Decline Plan Change 51 and leave as open space; Council could purchase and use as reserve land	Accept
51/18	Paul Symon	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/19	Rachael Moore	Oppose	Deny the Plan Change	Accept
51/20	Dyanna Smith	Oppose	Stop the changes to the original plan; support the original plan	Accept
51/21	Jervis Turner	Oppose	Stop the change	Accept
51/22	Lisa Tsai	Oppose	Stop the area proposed from becoming a Low density residential area and to preserve the trails and land for all to enjoy.	Accept
51/23	Chris Robertson	Oppose	Prevent the re-zoning to residential; retain the natural habitat; and retain the area for all to enjoy	Accept
51/24	Michelle Harrison	Oppose	Prevent the area becoming low density housing and preserve the tracks and landscape	Accept
51/25	Dr W A N Brown	Oppose	Decline the application in its entirety and retain the original residential boundary	Accept
51/26	Jason Locker	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/27	Dan O'Regan	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/28	Randolf and Muriel A Holst	Oppose	Disallow Plan Change 51	Accept
51/29	Jolene Goodwin	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/30	Mike Hohnston	Oppose	Proceed with option 2, which is no change to the existing plan	Accept
51/31	Geoffrey Marks	Oppose	Decline Plan Change 51	Accept
51/32	Sally Law	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/33	Nicola McGregor	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/34	Matthew Quirk	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/35	Barbara Blatt	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/36	Janet Young	Oppose	Do not amend the plan as per Plan Change 51 but, rather; retain the open space zoning; vest the land as per the previous agreement; and retain as reserve for the community	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/37	Sandra McTavish	Oppose	Opposed to the Plan Change	Accept
51/38	Raymong Miller	Oppose	Decline the Plan Change in its entirety.	Accept
51/39	Suze Kelly	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/40	Amy Hall	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/41	Jenny Grace	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/42	Tiffany Shervell	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/43	Danielle Ozich	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/44	Guy Cotter	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/45	William Lauren Ogle	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/46	Caroline Blaikie	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/47	Aaron Whitehead	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/48	Steven Moffat	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/49	Franck Bocamy	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/50	Tom Akass	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/51	Calvin Lee	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/52	Gus Leen	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/53	Niall Sutherland	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/54	Nicola Campbell	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/55	Marcel Hagener	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/56	Matt Beazley	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/57	Katharine Eustace	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/58	Rochelle Richardson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/59	Simone Maier	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/60	Jessica Griffin	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/61	Simon Bowden	Oppose	Protect, increase, and maintain the tracks	Accept
51/62	Louise Carney	Oppose	Opposed to the building of houses as intrudes on the recreation reserve.	Accept
51/63	Mark Goodwin	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/64	Kirsten Rabe	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/65	Julie Newell	Oppose	Object to the change of land in sticky forest and request it remain in public ownership and not sold off	Accept
51/66	Matthew Davidson	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/67	Shaun Baker	Oppose	Refuse Plan Change 51	Accept
51/68	Sarah Berger	Oppose	Refuse Plan Change 51	Accept
51/69	Mary Russell	Oppose	Do not allow Plan Change 51	Accept
51/70	Ella Hardman	Oppose	Reject Plan Change 51 in its entirety and uphold the Open space provisions.	Accept
51/71	Adrian Knowles	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/72	T Dennis	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/73	Jo Guest	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/74	Perryn Lydford	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/75	Cathy Price	Oppose	Not authorise any building in the open space zone through Plan Change 51	Accept
51/76	Kim Merran Onesti	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/77	Yvonne Maria Laukens	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/78	Sarah Ferguson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/79	Christien Smeja	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/80	Jody Blatchley	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/81	Bruno Geldermans	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/82	Jessica Flair Bradbury-McKay	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/83	Greg Inwood	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/84	Bill Brooker	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/85	Grant Fyfe	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/86	Fiona Blair	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/87	Elaine Smith	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/88	Jenn Shelton	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/89	Rebecca Bredehoft	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/90	Cade Palmer	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/91	Lucy Waters	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/92	Veronica Howes	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/93	Wayne Casey	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/94	Julie Tessier	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/95	Bastien Tessier	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/96	Mark Hook	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/97	Angela Hook	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/98	Reece Cameron	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/99	Richard R Jeans	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/100	Pip Clearwater	Oppose	Reject the Plan Change in its entirety; uphold the open space zone provisions; and vest the land in council as reserve.	Accept
51/101	I Tisashi Sasaki	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/102	Eliska Lewis	Oppose	Decline Plan Change 51	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/103	Matthew Lewis	Oppose	Decline Plan Change 51	Accept
51/104	Steve Schikker	Oppose	Decline Plan Change 51, in its entirety	Accept
51/105	Chris Chalk	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/106	Toby Hague	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/107	Alycia Walker	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/108	Martin Galley	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/109	Alex Poyser	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/110	Gabrielle Vermunt	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/111	Daniel McKenzie	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/112	Wayne Moss	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/113	Brent Millar	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/114	Gwen Hendry	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/115	Willem Groenen	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/116	Jason Kum	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/117	Tasha Lahood	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/118	Nichola Shaw	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/119	Peter Thomson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/120	Cassy Phatouros	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/121	Jo-Anne Stock	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/122	Amanda Tipton	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/123	Gordon Path	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/124	Harriet Gibson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/125	Louise Brown	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/126	Meghan Merryfield	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/127	Sam Chapman-Molloy	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/128	Jason Woolf	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/129	Stuart McCann	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/130	Kerri Hillis	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/131	Kristal Tall	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/132	Emily Wilson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/133	Diana Schikker	Oppose	Decline Plan Change 51 in its entirety	Accept
51/134	Chris Tubb	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/135	Tony Culshaw	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/136	Olly Lewis	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/137	Tom Dupont	Support	Support the subdivision of the land as proposed	Reject
FS51/206-1	Peninsula Bay Joint Venture		Support this submission. Approve the plan change.	Reject
51/138	Richard Birkby	Oppose	Do not approve Plan Change 51	Accept
51/139	Karen Birkby	Oppose	Not allow Plan Change 51.	Accept
51/140	Jenny Ferguson	Oppose	Stop proposed Plan Change to low density housing	Accept
51/141	David Balls	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/142	Matt Carr	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/143	Gwilym Griffith-Jones	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/144	Merle Schluter	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/145	Julia Le	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/146	Lori Balls	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/147	Bridget Irving - Gallaway Cook Allan	Oppose	Decline Plan Change 51 and retain the operative plan.	Accept
FS51/206-7	Peninsula Bay Joint Venture		Oppose this submission. Approve the plan change.	Reject
51/148	Matt Proctor	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/149	Bridget Irving - Gallaway Cook Allan	Oppose	Decline Plan Change 51 and retain the operative plan.	Accept
FS51/206-8	Peninsula Bay Joint Venture		Oppose this submission.	Reject
51/150	Philip Vitesnik	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/151	Jason and Samantha Parrant	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/152	Dr Ella Lawton	Other	Should the Plan Change proceed, in order to be successful points 1 - 10 of the submission should be incorporated into the proposed plan/ decision, Points 1 - 10 relate to ensuring that any changes to the recreational area and track network <i>improve</i> recreational opportunities; the development is of a high standard; and that track maintenance is provided for. Specifically, ATN seeks 1) the relocation of the carpark (see map); 2) 3) construction of a new grade 2 'easy option' bike/ walking track (see map); 4) construction of a carpark at the end of Bull Ridge (see map); 5) track design at the lookout to specifically minimise/ avoid conflict; 6) construction of a toilet at the northern-most carpark; 7) tracks to be developed by professionals and in partnership with community groups; 8) a footpath be developed on the north-north eastern side of Infinity Drive; 9) the new walking track (see map) to be 1.5 m wide; and 10) construction of a suitable grade walking track linking Peninsula Bay to the lakefront (see map). Note: 1 - 5 above have apparently been agreed with the applicant/ requestor.	Reject (as a consequence of rejecting the Plan Change)
FS51/206-9	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/153	John Wellington	Oppose	Decline Plan Change 51 in its entirety and retain the operative open space zone provisions.	Accept
51/154	Scott Edgar - Southern Land	Oppose	Reject Plan Change 51 in its entirety	Accept
51/155/01	Craig Barr - QLDC	Other	Reject Plan Change 51 unless the Plan change satisfactorily a) addresses the impact on the future treatment of staged subdivisions and vesting of assets and b) ensures the open space provided remains commensurate with the scale of the Peninsula Bay subdivision.	Accept
FS51/206-10	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/155/02	Craig Barr - QLDC	Other	Reject Plan Change 51 unless the Plan change satisfactorily resolves concerns regarding a) whether the LDR zoning is appropriate given the landscape sensitivity and proposed management of such effects; b) the effectiveness of the covenants to mitigate effects if administered by a 3rd party; c) ongoing issues if council were to be a party to the covenant; d) the effectiveness and efficiency of allowing LDR zoning should the land be shown to have sensitive due to its ecological and landscape values.	Accept
FS51/206-11	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/155/03	Craig Barr - QLDC	Other	Apply the LDR zoning only to those areas that are suited to this form of development without the need for bespoke provisions, in order to avoid further extending the already lengthy rules	Accept
FS51/206-12	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/155/04	Craig Barr - QLDC	Other	Reject Plan Change 51 unless the Plan change satisfactorily resolves concerns regarding a) whether the northern-most lots are located such that the remaining open space is able to provide viable and practical trails (the panel may wish to have future trails shown a Structure Plan or using covenants to restrict no complaints from the residents in relation to the use of such trails); and b) formal acknowledgement from the requestor that improvements will be provided over and above any development contributions payable.	Accept
FS51/206-13	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/155/05	Craig Barr - QLDC	Other	Reject Plan Change 51 unless the panel is assured that the proposed planting and ecological restoration a) will provide indigenous biodiversity benefits that compensate or offset the proposed loss of indigenous vegetation, and b) is viable, taking into account the exposed nature of the site from wind, maintenance, irrigation, and pest control.	Accept
FS51/206-14	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/155/06	Craig Barr - QLDC	Other	Reject Plan Change 51 unless the panel is assured that a) the effects of the proposed earthworks associated with the subdivision and establishment of the building platforms are acceptable in terms of adverse effects on the ONL, and b) the effects of the proposed earthworks associated with future development following the subdivision are acceptable in terms of adverse effects on the ONL and do not conflict with the earthworks provisions in the District Plan.	Accept
FS51/206-15	Peninsula Bay Joint Venture		Support this submission in part/ oppose this submission in part. Approve the plan change	Reject
51/156	Jodie Rainsford	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/157	Mark Strang	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/158	Simon Williams	Oppose	Reject Plan Change 51 and suggest to the applicant that it carry out regeneration of this land with native trees as a way of apologising for taking up the community's time with this process	Accept
51/159	Quintin Smith	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/160	Simon and Vickie Moses	Oppose	Reject Plan Change 51 in its entirety, uphold the Open space provisions, and vest the land in council as initially intended	Accept
51/161	Linda Baker	Oppose	Refuse Plan Change 51	Accept
51/162/01	Denise Bruns	Oppose in part	Not approve the proposed zone change and scheme plan	Accept
51/162/02	Denise Bruns	Oppose in part	That only the zoning of proposed lots 7 -12 be changed to allow residential development and strict controls added to keep all buildings below the ridgeline and strict controls/ checks imposed to ensure topsoil and other items are not stored in any other area and no landscape modification occurs in any other area of the ONL or other area designated as 'not for development'.	Reject
51/162/03	Denise Bruns	Oppose in part	Impose strict controls on what plants are approved for any re-planting/ buffer areas (i.e. allowing only those that would occur naturally in this area).	Accept
51/162/04	Denise Bruns	Oppose in part	Vest all remaining ONL and Open space land with the Queenstown Lakes District Council to ensure its protection in perpetuity	Accept
51/162/05	Denise Bruns	Oppose in part	Complete the original carparks and walking track access as per the original 2004/5 subdivisions	Accept in part, to the extent that this should occur in the event that the Plan Change is declined.
51/163	Seb Thursby	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/164	Tobias Wadeson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/165	Bryony Illsley	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/166	Richard Beven	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/167	Alex Kingsley	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/168	Corban Taylor	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/169	Kyle Taylor	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/170	John-Jo Ritson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/171	Emily Warne	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/172	Calum O'Dwyer	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/173	Edd Cole	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/174	Scott Sharpe	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/175	Jess Brown	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/176	Krystle Theunissen	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/177	Natasha Dawes	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/178	Andrea Beryl	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/179	Christina Brockie	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/180	Charles Burford	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/181	Ling Wei Chiang	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/182	Georgina Pearson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/183	Zeph Wadsworth	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/184	Jane Zwerrenz	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/185	Michelle Chave	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/186	H Gilbertson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/187	Whitney Dagg	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept

Appendix 2 - List of Submitters and Recommended Decisions

Submission Number	Name	Position	Decision Requested	Accept/Reject
51/188	Kimberley Rissman	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/189	Leah Miller	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/190	Laura Davidson	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/191	L Barrett	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/192	Tanja Schwindt	Oppose	Not authorise Plan Change 51; now or in the future	Accept
51/193	Doug Hamilton	Oppose	Deny Plan Change 51	Accept
51/194	Hayley Furze	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/195	Kate Schmelz	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/196	Andrew Cochrane	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/197	Elliot Ryan	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/198	Brett Jenkins	Oppose	Stop the proposed area from becoming an area of housing and leave the land and tracks available for all to use	Accept
51/199	Joanna Williams	Oppose	Keep this part of the tracks in tack (sic).	Accept
51/200	S Dickinson	Oppose	Stop the proposed area from becoming low density housing and leave the land and tracks for all to enjoy.	Accept
51/201	Margrethe Helles and Bruce Dowrich	Oppose	Do not allow Plan Change 51 but, instead, protect the area.	Accept
51/202	Tess and Paul Hellebrekers	Oppose	Decline the Plan Change and vest the open space as reserve	Accept
51/203	Robert Palmer and Judy Clarke	Oppose	Oppose Plan Change 51	Accept
51/204	Andrea Murray	Oppose	Keep the open space land for future generations	Accept
51/205	Bike Wanaka Inc.	Oppose	Reject the Plan Change in its entirety and vest the land in Council as initially intended	Accept

Appendix 3. Section 32/ 32AA Evaluation

S 32 and 32AA Evaluations

1. Introduction

- 1.1. While Section 32AA only requires a further evaluation of any changes that have been made to the proposal since the evaluation report for the proposal was completed (being that attached to the request report), I have elected to:
- a. First re-consider the requested plan change as notified in terms of S32; and to then
 - b. Consider the changes recommended in this report (being the rejection of the plan change in its entirety) against S32; and then
 - c. Consider the alternative, less desirable option of rezoning 3,420m² of land as LDR, which would enable the development of three lots.

2. Section 32(1)(a) - Whether the objective and purpose of the plan change is the most appropriate way to achieve the purpose of the act

The plan change purpose

- 2.1. As the plan change now proposes to include a new Objective, the appropriateness of the **plan change purpose** need not necessarily be assessed. However, this has been done for completeness/ as a precaution in case the panel wish to consider it.
- 2.2. The purpose of the plan change is:
- To enable the development of part of the land currently zoned Open Space at Peninsula Bay North for specified low density residential development, while providing for ecological gains and improved passive recreation on the balance of the open space zoned land between the peninsula bay development and Lake Wanaka.*
- 2.3. Given the land is located within the ONL, the purpose is inadequate in that it does not require section 6 and 7 landscape matters to be balanced against the imperative to develop low density housing.
- 2.4. While the purpose of the plan change accepts that such development should occur while providing for improved passive recreation on the balance of the open space zoned land, this does not adequately acknowledge that in comparing the optional uses for the land and determining the most appropriate method, the test should be whether the development will provide for the maintenance or improvement of recreational amenity overall. The requestor proposes to upgrade and slightly alter the alignment of the existing informal walkway to a 1 m wide gravel pathway and to provide a carpark, a toilet, and a memorial at its own expense and with no expectation of a credit against development contributions. The question then is whether such works will provide for "improved passive recreation on the balance of the open space zoned land between

the Peninsula Bay development and Lake Wanaka” as stipulated in the purpose of the plan change.

- 2.5. The submissions overwhelmingly do not support the proposed works on the balance land and do not consider that they provide adequately mitigate the effects or outweigh the reduction in the open space zone. While submitter 51/152 (ATN) seems to support the works subject to the amendments outlined in its submission, the submitter is unclear as to whether it considers the proposed works will actually result in a positive outcome, compared with the status quo. It would be useful if ATN could clarify this at the hearing.
- 2.6. Ms Galavazi cites concerns relating to the detail of the recreational works proposed (i.e. the width of the track, uncertainty as to what is proposed with regard to the bike track, and issues with the memorial track relating to conflict and erosion). She is also concerned about the effect the planting will have on character and recreational amenity. She is clearly of the view that, overall, the proposal will not provide for the long term improvement of the recreational offering/ amenity when compared to the status quo. In the event that the plan change were approved as propose, while Ms Galavazi accepts that the proposed track may be all that is possible given the limited area, she remains unconvinced that the proposed works actually meet the needs of the community or constitute an improvement to the status quo.
- 2.7. In summary, given the advice of Ms Galavazi and the strength of the message in the submissions that the community values the area’s existing natural character and remoteness, I am of the opinion that the upgraded walkway (which would need to be a 2 m wide grade 2 track as opposed to the 1 m track proposed) and the other proposed works would not necessarily result in improved passive recreation on the balance of the land and that, in respect of recreation, the plan change is not necessarily the most appropriate way of achieving the purpose of the plan change.
- 2.8. In summary, while I note that the purpose regarding ecological gains is generally appropriate, overall, the purpose of the plan change is not considered to be the most appropriate way of achieving the purpose of the RMA as it does not enable the adequate consideration of s 6(b), 7(c), 7(f), and 7(g).

Proposed new Objective

- 2.9. The amendments to the plan change dated 7 July 2016 introduce a new Objective to Section 15 of the District Plan. This means that one must consider whether the proposed Objective is the most appropriate way to achieve the purpose of the RMA. The objective (and associated policy) reads as follows:

New Objective 15.1.3.22 Peninsula Bay North Low Density Residential Zone

Low density residential development at Peninsula Bay North:

- a) enhances and where appropriate, protects areas of significant indigenous biodiversity;*
- b) protects the visual amenity values associated with the Outstanding Natural Landscape.*
- c) enables people to access land for passive and active recreation.*

New Policy 22.1

Development within Peninsula Bay North Low Density Residential Zone shall be generally in accordance with the Structure Plan, in particular the identification of ecological enhancement areas, connections to the adjacent open space zone, building platform locations and building heights.

- 2.10. Relying in part on the advice and evidence of Ms Palmer, Ms Galavazi, and Dr Read and for the reasons outlined elsewhere in this report, I am of the opinion that that, taken as a whole, the objective is not the most appropriate way of achieving the purpose of the RMA. While clause (c) is appropriate, the focus of Clause (a) should be strengthened by clarifying that existing species that are naturally present on the site (e.g. kanuka and short tussock grasslands) shall be protected and enhanced and Clause (b) is too narrow in that it does not provide appropriately for the protection of the openness and naturalness of the ONL, which are critical values of such landscapes.

3. S32(1)(b)(i) Other reasonably practicable options

- 3.1. Other reasonably practicable options for achieving the proposed and relevant operative objectives include:
- a. The status quo - retaining the existing boundaries of the open space zone;
 - b. Reducing the extent of the land re-zoned low density residential (LDR) in a manner that better achieves the purpose of the plan change and objectives of the District Plan.
- 3.2. You are also referred to Section 6 of the notified S32 report, which identifies four alternative planning methods for addressing the purpose of the plan change. Option 1 is to amend the open space rules to enable residential development; option 2 is to retain the status quo (discarded as it will not meet the purpose of enabling some residential development of the open space, which is a fundamental component of the plan change purpose); option 3 is to rezone part of the land as LDR (as proposed); and option 4 is to rezone part of the open space zone as some alternative zone. The S32 report clarifies that the options analysis started from the premise that, through landscape and ecological input, the boundary of the open space zone that should be retained had been established and that this was not further considered in the options analysis.

3.3. Given that the technical expertise attached to the S42A report has reached quite different conclusions in regard to the effects that the plan change will have on the environment, I have undertaken a further S32AA evaluation for the proposed plan change and also for the other 2 options outlined above.

4. S32(1)(b)(ii)(iii), S32(1)(c), S32(2), and S32(3) - Assessment against the proposed and relevant operative objectives of the District Plan

4.1. The following assessment considers whether the plan change is the most appropriate method of achieving the relevant objectives in relation to the issues raised in submissions.

4.2. Pursuant to S32, this has been done by assessing the costs and benefits of the effects anticipated from the plan change and the risk of acting or not acting if there is uncertain information and, in turn, assessing how effective and efficient the provisions are at achieving the proposed and relevant operative objectives of the District Plan. This assessment has been undertaken below for what I consider to be the 3 key options: the requested plan change, a plan change which rezones considerably less land as LDR, and retaining the status quo.

4.3. The relevant District Plan objectives that I consider are relevant to the plan change and would remain if the plan change is approved are included in Table 4 below. You are also referred to the advice and evidence of Ms Galavazi, Dr Read, and Ms Palmer, which also assess the plan change against the objectives that are relevant to their respective areas of interest.

4.4. I also note that while S32 stipulates that the test of appropriateness is only to be made against the objectives, in my opinion one must also consider the associated policies for a complete understanding of what is intended to be achieved by the broadly stated objectives.

Option 1: S32 Evaluation of the Plan Change as Requested

Table 1

Costs of the effects anticipated from the plan change	Benefits of the effects anticipated from the plan change	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ¹
<p><i>Environmental</i></p> <ul style="list-style-type: none"> • A net ecological loss over the site. • Further degradation of short tussock grasslands, within an acutely threatened land environment. • A significant change to the existing ecosystem by introducing species not naturally found in this location. • The natural character of the ONL would be significantly adversely affected, noting that Dr Read considers the whole plan change area to be within the ONL and to be the last remaining part of the Wanaka moraine that retains its natural character and indigenous vegetation. • The natural context of the Peninsula Bay subdivision will be adversely affected. • The proposed dwellings, vegetation clearance and planting, and earthworks on proposed Lots 4 - 6 and 13 - 26 and for roading would have a significant adverse effect on the character of the lake Wanaka outlet landscape unit. • The proposed dwellings and planting would have adverse effects on views from within the Peninsula Bay subdivision, (ranging from small to significant, depending on the vantage point). • The visibility of the proposed dwellings on proposed lots 4, 5, and 6 and potentially on Lots 23 and 24 would have a significant cumulative adverse effect on some views of the site • The residential amenity of the adjoining sites on Infinity Drive would be adversely affected by proposed lots 7-12 as these will overlook those sections. • The rules and Structure Plan: <ul style="list-style-type: none"> - Are not sufficient to ensure an appropriate or diverse mix of species in that they do not dictate the mix or prevent homogenous communities from being established; 	<p><i>Environmental</i></p> <ul style="list-style-type: none"> • Nil <p><i>Economic and employment</i></p> <ul style="list-style-type: none"> • Increased employment opportunities from the construction of the subdivision and housing. • The development of 26 lots in this location will make more efficient use of existing 3 waters and roading infrastructure. <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> • While development of 26 houses (and potentially 26 Residential Flats) will add to the housing supply, given the location, aspect, and covenants it will not make any meaningful contribution to the provision of affordable housing or to the overall land market/ land supply. • The remaining open space area would include a grade 2 track, toilet and carpark. However these facilities do not appear to be sought by the wider community at this time. 	<p><i>Uncertainty</i></p> <ul style="list-style-type: none"> • As outlined more fully below under ‘the risk of acting or not acting’, there is considerable uncertainty in relation to the future role of this open space area in the overall network; the effectiveness of the rules; and the number of units that would be enabled by the plan change. <p><i>Effectiveness.</i></p> <ul style="list-style-type: none"> • The plan change will not be effective at achieving the purpose of the plan change, primarily because it will not achieve ecological gains or result in improved recreational opportunities on the remaining open space. • The plan change will not be effective at achieving proposed Objective 15.1.3.22, primarily due to the fact that it will not enhance or protect the areas of significant indigenous biodiversity or protect visual amenity. NB: It will continue to provide for public access albeit on a more limited scale. • The plan change is not the most appropriate way of achieving the relevant District Plan objectives, for the reasons outlined in Table 4 below. • The lack of certainty further reduces the effectiveness of this option <p><i>Efficiency</i></p>

¹ The relevant objectives (and an assessment of the options against those) is included in Table 4 of this Evaluation

Costs of the effects anticipated from the plan change	Benefits of the effects anticipated from the plan change	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ¹
<ul style="list-style-type: none"> - Will result in linear hedge-like planting and result in significant plantings on private land, which is inherently difficult to monitor and is therefore often ineffective. - Do not control the colour/hue of buildings, which is important for some lots - Enable small buildings outside the building platforms, which raises uncertainty (such buildings needed to be within the platforms in the notified version) and potential effects that have not been considered by the respective landscape architects. - Require earthworks which may be more extensive than necessary depending on the building design • The plantings would take 5 to 15+ years to establish, during which a range of adverse effects would result. • The visual amenity of users of the remaining open space zone would be adversely affected to a moderate extent by development and planting on lots 1-6 and 22 -24. • The larger trees and planting patterns would significantly alter the landscape character and would appear unnatural. <p><i>Economic</i></p> <ul style="list-style-type: none"> • An increase in maintenance costs to the Council from maintaining the gravel track, carparks, and a toilet. • Economic cost to Council of having foregone 6 ha of highly usable open space land, noting that the CV of the existing 13.8 ha block is \$1.35 mill, indicating that the forgone 6.11 ha would have a CV in excess of \$600,00. The true value of this as recreational land is however, unknown. • A potential reduction in revenue to businesses which directly and indirectly benefit from the cycling and walking-related tourism. • In the event that an additional 26 residential flats are also developed within the area (as enabled by the rules), this would presumably require infrastructure upgrades, noting that the infrastructure report (Appendix I) is unclear whether there is capacity beyond 31 lots. • Would require a variation to RM060929 (which currently requires the vesting of all the Open Space land in Council) and a change to 		<ul style="list-style-type: none"> • As the plan change is considered to be ineffective the matter of efficiency need not be further considered

Costs of the effects anticipated from the plan change	Benefits of the effects anticipated from the plan change	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ¹
<p>the Council's resolution regarding vesting. This will impose a minor cost on both the applicant and Council.</p> <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> • The remaining open space area offers limited recreational opportunities and does not appear from the submissions to meet the recreational and social needs of the wider community who do not appear to favour the 'improvements' offered through the proposed Structure Plan. The introduction of the memorial track will create conflict with existing informal mountain bike tracks which cross this proposed track, thus limiting their use and future development. • Approving the plan change and associated Structure Plan (works) may limit community initiatives on the land (e.g. track building, pest management, and planting), which are common in this district and have significant social benefits, as there may be a lack of good will and ownership of the project. • The reduced size severely limits future options in terms of developing the reserve and is therefore likely to result in less social and recreational benefits in the long term (inter-generationally). • The sense of remoteness and natural character of the area currently enjoyed by the community (as expressed in submissions) and which give its users a sense of wellbeing will be irreversibly changed. • The 'sense of place' derived from the rural backdrop that contains the Peninsula Bay subdivision would be significantly diminished. 		
<p><i>Neutral effects:</i></p> <ul style="list-style-type: none"> • The plan change will have no effect on the existing ecological connectivity. • The additional revenue to Council from the payment of development contributions and annual rates from the construction of 26 residential lots (estimated at \$351,000.00 and \$91,000.00 and cited as economic benefits in the notified S32 report) does not provide any economic benefit. Rather, it has a neutral effect as both development contributions² and rates are calculated on the basis of the estimated costs of servicing those additional properties/ the extra burden imposed on Council's infrastructure/assets/services and therefore results in neither a benefit nor a deficit. • As there is no evidence that the community are seeking the works proposed within the open space zone, the fact they will be provided at nil capital cost to the ratepayer 		

² <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/Policies/Finance/Development-Contributions/QLDC-DC-Policy-2016-Adopted.pdf>

Costs of the effects anticipated from the plan change	Benefits of the effects anticipated from the plan change	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives¹
cannot reasonably be considered as a tangible benefit but, rather, will have a neutral effect.		

The risk of acting or not acting if there is uncertain information

4.5. The issue of risk is considered relevant when considering the effectiveness and efficiency of the plan change in that:

- a. There is considerable uncertainty as to how this part of the open space zone should be managed and what its purpose should be in the context of the overall open space network. Related to this, there is uncertainty around the appropriateness of the plans for the remaining open space. For example, whether a toilet is required in this general vicinity (in part due to the uncertainty around continued public access to Sticky Forest) is uncertain and if and when it is required, where the best location for this would be has not been sufficiently well canvassed, noting that the plan change process is not the appropriate process for such consultative process, in any case
- b. There is considerable uncertainty as to how effective the rules (and resulting consent notices) will be at mitigating various effects. For example:
 - i) Rule 15.2.6.3 xi(iii) does not limit the colour/ hue of buildings thereby raising uncertainty around the visibility of the dwellings;
 - ii) Rules 15.2.6.3 xi(iv) and (v) do not specify a particular mix of species, thereby raising uncertainty as to whether the planting will result in ecological benefits and be appropriate/ appear natural in its site;
 - iii) The Structure Plan requires significant planting within private land and this raises uncertainty as to how effectively this can be enforced when residents will undoubtedly want to retain the existing expansive views offered by many of the sites;
 - iv) Rule 15.2.6.3 xi(vi) requires the full extent of earthworks shown on the Structure Plan to be undertaken even though it may not be required depending on the specific design of the dwelling which eventually be built there;
 - v) As the clearance of certain species is only required through the Structure Plan (and not through rule 15.2.6.3(ix) it is unclear whether this would be required of individual subsequent owners on an ongoing basis or only at the time of subdivision pursuant to rule 15.2.6.3(ix)(a);
 - vi) The Structure Plan and rules 15.2.3.4 and 15.2.6.3(ix)(a) are uncertain in that it is unclear what 'in general accordance with the Structure Plan' means and what is intended by the 'indicative' carparks and whether one or both option A or B carparks are required.
- c. Whereas the plan change was promoted and notified on the basis of a land covenant which confirmed that the plan change would enable a maximum of 26 dwellings, the amended PC51 (7 July 2016) enables 26 "residential units" which,

pursuant to the District Plan definition, enables an equal number of residential flats to also be developed if owners so wish. The infrastructure reports attached to the Request Report as Attachment I only confirm that there is infrastructural capacity to provide for 31 lots/ connections, (at least in relation to water and wastewater). As such, there is uncertainty as to whether the full development potential enabled by the plan change can be serviced.

- 4.6. The risk of acting (i.e. approving the plan change) in the absence of the updated Parks Strategy is considered to be significant in that the decision is irreversible and would significantly restrict future options. The risk of approving the plan change in the face of the uncertainty created by the rules is also considered significant in relation to potential effects on landscape, ecology, and recreational amenity, should the rules prove not to be wholly effective or efficient.

- 4.7. Page 17 of the amendment to the Request lists the risks of not acting as the lost opportunity to increase the supply of residential land, enhance the degraded indigenous vegetation, make use of existing infrastructure, and contribute to the economy. In response, the lost opportunity regarding the ecological benefits are not agreed with and the others are considered to be insignificant and to not adequately mitigate the adverse environmental effects of the proposal

Option 2: Evaluation of retaining the status quo and rejecting the plan change in its entirety

4.8. This option would involve retaining the current open space zoning over all that land subject to the plan change

Table 2

Costs of the effects anticipated from retaining the status quo	Benefits of the effects anticipated from retaining the status quo	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ³
<p><i>Environmental</i></p> <ul style="list-style-type: none"> Ecological enhancement will be reliant on responsible custodial management by the Council and community, which must, as a minimum, include weed control (and rabbit control if possible). While there is no certainty this would be undertaken, other examples in the districts suggest it is reasonable to assume it will be. <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> The Council will not necessarily provide any additional trails or facilities on this land at least for some years and only once a concept/management plan has been developed in conjunction with the community. However, this seems in line with the views of the majority of submitters, who indicate a preference to leave the area in its natural 'unimproved' state in order to best retain the highly valued remote and natural experience it offers. Would make no contribution to housing supply. <p><i>Economic and employment</i></p> <ul style="list-style-type: none"> Would make no contribution to the development/construction-based economy and 	<p><i>Environmental</i></p> <ul style="list-style-type: none"> The landscape and visual amenity effects would be protected from inappropriate development, including <ul style="list-style-type: none"> Maintaining the values associated with the ONL (i.e. its openness, naturalness, and visual amenity values) in a manner that is consistent with the District Plan objectives Avoiding cumulative adverse effects on landscape values. Retaining the rural backdrop and high visual amenity it provides to those within the peninsula bay subdivision. Provided pest control is undertaken, the ecological values of the open space zone would be protected and enhanced over time. By avoiding significant clearance of vegetation and the introduction of species (such as beech) that are not naturally found in this location this would enable the regeneration of the short tussock grasslands and kanuka. Would retain the existing highly legible urban/ rural boundary <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> Would retain the rural backdrop to the northern end of the Peninsula Bay subdivision; a feature which contributes significantly to the area's 'sense place' and enables those within it to provide for their social wellbeing Would maximise future opportunities to develop the open space zone for a range of recreational purposes, thus enabling residents and visitors to provide for their social wellbeing Would enable the community to be fully engaged in the process 	<p><i>Uncertainty</i></p> <p>This option is relatively certain, with the uncertainty limited to the quality of custodial management undertaken by council once vested. This uncertainty is considered to be minor given the council's history of undertaking effective plant pest management (and replanting) elsewhere in the district in partnership with the community.</p> <p><i>Effectiveness.</i></p> <ul style="list-style-type: none"> On balance, this option will be effective at achieving the purpose of the plan change as significant low density residential housing is already enabled in the wider Peninsula Bay north area and retaining this land within the open space zone will result in ecological gains and improved recreational opportunities on the open space zone over time. I note that I do not consider this purpose to be appropriate in the first instance. This option will be relatively effective at achieving proposed Objective 15.1.3.22, in that low density residential housing is already enabled in the wider Peninsula Bay north area and retaining the existing open space zone will provide the opportunity for existing areas of

³ The relevant objectives (and an assessment of the options against those) is included in Table 4 of this Evaluation

Costs of the effects anticipated from retaining the status quo	Benefits of the effects anticipated from retaining the status quo	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ³
<p>employment base.</p> <ul style="list-style-type: none"> Should the Council decide in the future to undertake the works within the open space zone being offered by the Requestor, this would impose a cost on ratepayers. 	<p>of determining the best immediate, medium, and long term management and development for the area; a process which in itself enables the community to provide for its social wellbeing.</p> <ul style="list-style-type: none"> The existing (and potential future) recreational experience would be protected. The natural character and sense of remoteness enjoyed from within the reserve would be retained, thus contributing the community's social wellbeing. Would enable the Council to have regard to the updated Parks Strategy when produced and to engage with the community to determine the best long term plan for the area. Would enable joint ventures to be entered into between Council and community groups as is common in the district to achieve pest control, planting, and recreational objectives over the whole site. <p><i>Economic and employment</i></p> <ul style="list-style-type: none"> Retaining the full breadth of options in terms of enhancing the trail network on this land in the future would enable it to make a greater contribute to the economic and employment benefits that accrue from cycling and walking-related tourism Would impose significantly less maintenance costs on Council in the short to medium term, compared with Option 1. Not developing this land ahead of public demand will result in annual maintenance savings. Will avoid the need for a variation to RM060929 as the land would proceed to being vested in Council in accordance with the existing condition. This will be a minor cost saving. Will avoid adding complexity to the District Plan or relying on consent notices on titles to achieve fine grained land use outcomes in order to mitigate the effects of development. 	<p>significant indigenous biodiversity to be protected (through retaining them as open space); will adequately protect the visual amenity values of the ONL; and enable public access to recreational land.</p> <ul style="list-style-type: none"> The status quo is the most appropriate way of achieving the relevant District Plan objectives, for the reasons outlined in Table 4 below. <p><i>Efficiency</i></p> <ul style="list-style-type: none"> This option is efficient in that the zoning and rule framework provide a high degree of certainty and protection due to the prohibited activity status of (most) building and development. This option enables the future development of the reserve to be undertaken in a manner that is consistent with an overarching strategy, which can consider all options and ensure efficient timing and funding of capital works and maintenance. This option avoids the costly administration and monitoring of having more site specific rules in an already complex and highly detailed/ fine-grained District Plan.

Option 3: Evaluation of an alternative plan change to rezone only Lots 1 - 3

4.9. This option would involve zoning only that land that Council's technical experts have indicated will have the least effect on recreational, ecological, and landscape values.

Table 3

Costs of the effects anticipated from the plan change	Benefits of the effects anticipated from the plan change	Effectiveness and efficiency of the plan change in achieving the plan change purpose and the proposed and operative objectives ⁴
<p><i>Environmental</i></p> <ul style="list-style-type: none"> The landscape and visual amenity effects on the 4 existing lots located to the west of Bull Ridge would be moderately significant. <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> It is unclear (and considered to be unlikely) that the requestor would make any contribution to works within the reserve in the event that the scale is reduced to this extent. Any contribution to the housing supply would be insignificant. <p><i>Economic and employment</i></p> <ul style="list-style-type: none"> Would make a much smaller contribution to construction-based economy and employment due to the reduced scale of the subdivision (3 houses). Should the Council decide in the future to upgrade the reserve in a similar manner to that being offered by the requestor, this would impose a capital cost on ratepayers. However, there is considerable uncertainty around what upgrading, if any, are desirable at this point. Site-specific rules would still be necessary in relation to planting and building heights in order to adequately mitigate the effects on the landscape and amenity. 	<p><i>Environmental</i></p> <ul style="list-style-type: none"> The landscape effects would be limited to the effect on the views from the 4 existing lots located to the west of Bull Ridge. Would have limited effects on the residential amenity of others within the Peninsula Bay residential area or on the adjacent Mt. Gold Place properties, provided the proposed kanuka planting is undertaken Would retain a relatively legible urban/ rural boundary, as the rural backdrop will remain intact. Would generally maintain the values associated with the ONL in a manner that is consistent with the District Plan objectives Would not result in cumulative adverse effects on the landscape values. <p><i>Social, including recreational</i></p> <ul style="list-style-type: none"> Would not significantly restrict the future options for developing the open space zone for a range of recreational purposes. The existing (and potential future) recreational experience would not be affected Would enable the Council to have regard to the updated Parks Strategy and engage with the community to determine the best long term plan for the area 	<p><i>Uncertainty</i></p> <p>This option is relatively certain, with the uncertainty limited to the quality of custodial management undertaken by council once vested. This uncertainty is considered to be minor given the council's history of undertaking effective plant pest management (and replanting) elsewhere in the district in partnership with the community.</p> <p><i>Effectiveness.</i></p> <ul style="list-style-type: none"> On balance, this option would be relatively effective at achieving the purpose of the plan change. It would result in ecological gains, would maintain although not necessarily improve recreational opportunities on the remaining open space and would enable only a very small amount of residential development. I note that I do not consider this purpose to be appropriate in the first instance. This option would be relatively effective at achieving proposed Objective 15.1.3.22; primarily due to the fact that it would provide the opportunity for existing areas of significant indigenous biodiversity⁵ to be protected (through retaining them as open space; adequately protect the visual amenity values of the ONL; and enable public access to recreational land. On balance, this option is an appropriate (although not the most appropriate) way of achieving the

⁴ The relevant objectives (and an assessment of the options against those) is included in Table 4 of this Evaluation

⁵ Note: Ms Palmer considers this land does contain such areas of significant indigenous biodiversity and that Section 6(c) of the RMA is therefore relevant.

<p>In order to avoid site specific rules in the LDR zone as requested in the QLDC's submission, such rules would need to be in the subdivision section, which would then require consent notices to be registered on the titles. The rules will add complexity to the District Plan and the consent notice in relation to planting will add additional ongoing administration and monitoring costs to Council and landowners.</p> <ul style="list-style-type: none"> • Would require a variation to RM060929 (which currently requires the vesting of all the Open Space land in Council) and a change to the Council's resolution regarding vesting. This will impose a minor cost on both the applicant and Council. 	<ul style="list-style-type: none"> • Will enable joint ventures to be entered into between Council and community groups as is common in the district to achieve pest control, planting, and recreational objectives. • The natural character and sense of remoteness enjoyed from within the reserve and the sense of place enjoyed from within the peninsula bay residential area would be largely retained, thus contributing to the community's social wellbeing. <p><i>Economic and employment</i></p> <ul style="list-style-type: none"> • Would make a very minor contribution to the economy and employment from the construction of the subdivision and development of 3 houses. • Would still enable the open space to be developed (for recreational purposes) over time in a manner that would contribute to the economic and employment benefits that accrue from walking and cycling-related tourism. • Would impose less maintenance costs on Council compared with Option 1 (assuming carparks, toilets, and the gravel tracks are not considered an immediate priority and are not constructed in the immediate term). 	<p>operative objectives, as outlined in Table 4.</p> <p><i>Efficiency</i></p> <ul style="list-style-type: none"> • This option is not considered to be efficient in that the benefits are of such a minor nature that they are outweighed by the costs relating to visual amenity effects and the need to include a subzone and/ or Structure Plan and site-specific rules in the District Plan in order to mitigate these effects. • While the rule framework is efficient in that it does not require any specific landuse consents once titles are issued, the monitoring of consent notices imposed at subdivision stage is likely to be inefficient and impose costs on Council/ the community and the landowners.
<p><i>Neutral effects:</i></p> <ul style="list-style-type: none"> • The effects on ecological values of the site would be relatively neutral. • The additional revenue to Council from the payment of development contributions and annual rates from the construction of 3 residential lots would result in neither a benefit or cost to Council. 		

5. S32(1)(b) - Assessment of whether the proposed 'provisions' (i.e. plan change) or another alternative option is the most appropriate way of achieving the Objectives

5.1. The following table identifies all the relevant objectives and, then based on the cost benefit assessments above, determines whether the plan change or some other alternative is the most appropriate way of achieving the objectives. Taking a holistic view of the objective, I have concluded that the requested plan change would not be the most appropriate way of achieving the objectives, the option of rezoning 3,420m² as LDR would be appropriate but not the most appropriate way, and maintaining the status quo would be the most appropriate.

Table 4

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p><u>Urban Growth and Residential Development</u></p> <p>Section 4.9.3 Objective 2 – Existing Urban Areas and Communities: <i>Urban growth which has regard for the built character and amenity values of the existing areas and enables people and communities to provide for their social, cultural and economic wellbeing.</i></p> <p>Section 4.9.3 Objective 3 - Residential Growth: <i>Provision for residential growth sufficient to meet the District's needs</i></p> <p>Section 4.10.1 Objective 1: <i>Access to Community Housing or the provision of a range of Residential Activity that contributes to housing affordability in the District.</i></p>	<p>The plan change is not the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.9.3.2 as it does not have sufficient regard for the amenity values of the existing urban area (also refer policy 2.1) Objective 4.9.3.3 as while it provides for residential growth it does not do this in a manner that maintains and enhances residential character (policy 3.4) Objective 4.10.1.1 as, while it will increase housing supply by 26 houses, given their location and design, the houses will not be affordable. 	<p>Retaining the status quo is the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.9.3.2 as it will prevent urban growth which would otherwise have an adverse effect on the amenity values of the existing urban area and will enable the community to provide for its social and economic well-being. Objective 4.9.3.3 in the manner anticipated by the associated policies in that it will result in urban consolidation (but rather, urban spread) and will maintain and enhance existing residential character. The status quo will not be the most appropriate way of achieving Objective 4.10.1.1. 	<p>This option is an appropriate way of achieving objectives 4.9.3.2 and 4.9.3.3, although not the most appropriate way as it is reliant on site specific rules in order to have appropriate regard for visual amenity and character.</p> <p>This option is not an appropriate way of achieving objective 4.10.1.1.</p>
<p><u>Low Density Residential Zone</u></p> <p>Section 7.1.2 Objective 1 – Availability of Land: <i>Sufficient land to provide for a diverse range of residential opportunities for the District's present and future urban populations, subject to constraints imposed by the natural and physical environment.</i></p> <p>Section 7.1.2 Objective 2 – Residential Form: <i>A compact residential form readily distinguished from the rural environment which promotes the efficient use of existing services and infrastructure.</i></p>	<p>While the plan change adds to the stock of residentially zoned land, it is not the most appropriate way of achieving Objective 7.1.2.1 in that it has not adequately accommodated the constraints imposed by the natural landscape and blurs the distinction between the urban and rural areas.</p> <p>While the plan change makes efficient use of existing services and infrastructure, it is not the most appropriate way of achieving Objective 7.1.2.2 as the spread of residential development onto this landform blurs the distinction between the rural and</p>	<p>Retaining the status quo is the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 7.1.2.1 in that it acknowledges the significant natural and physical environmental constraints to providing for residential opportunities on this particular site. Objective 7.1.2.2 in that it provides a legible urban edge to the existing compact residential form that is readily distinguished 	<p>This option is an appropriate (although not the most appropriate) way of achieving:</p> <ul style="list-style-type: none"> Objective 7.1.2.1 in that it provides for residential development to the limited extent that is possible, (given its urban edge location and the constraints of the site) in a manner that continues to provide a clearly defined and defensible edge to the urban area. Objective 7.1.2.2 in that the

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p>Section 7.1.2 Objective 3 – Residential Amenity: <i>Pleasant living environments within which adverse effects are minimised while still providing the opportunity for community needs.</i></p> <p>Section 7.3.3 Objective 1: <i>Residential and visitor accommodation development of a scale, density and character within sub zones that are separately identified by such characteristics as location, topology, geology, access, sunlight or views.</i></p> <p>Section 7.7.3 Objective 2: <i>Low density rural living development in identified locations in close proximity to Wanaka.</i></p> <p>Section 7.3.3 Objective 3: <i>Retention of the general character of the residential environments in terms of density, building height, access to sunlight, privacy and views.</i></p>	<p>urban environment; may set a precedent for other such buffer-type development at the urban edge; and does not constitute compact residential form.</p> <p>The plan change is an appropriate way of achieving Objective 7.1.2.3, except for the effect on the existing adjoining lots.</p> <p>The plan change is generally an appropriate way of achieving Objectives 7.3.3.1 and 7.3.3.2 (to the extent they are relevant).</p> <p>While the intent of Objective 7.3.3.3 is not clear from the policies or issues the plan change is not an appropriate way of retaining the general character of the residential environments in terms of density, building height, access to sunlight, privacy and views in that much of the new development will be of a different density and character than the rest of Peninsula Bay.</p>	<p>from the rural environment. However, it is noted that the status quo does not enable more efficient use of existing services and infrastructure.</p> <ul style="list-style-type: none"> Objective 7.1.2.3, as it retains the pleasant living environment of the existing residential area and will continue to provide for the community's recreational needs. Objectives 7.1.2.3, 7.3.3.1 and 7.7.3.2 to the limited extent that they are relevant. 	<p>proposed lots sizes are generally of an urban character; are relatively consistent with others in the vicinity; and enable a small improvement in the efficiency of existing infrastructure</p> <ul style="list-style-type: none"> Objective 7.1.2.3 and 7.3.3.3. Objectives 7.3.3.1 and 7.7.3.2, to the limited extent that they are relevant,
<p><u>Takata Whenua</u></p> <p>Section 4.3.4 Objective 1 – Kaitiakitanga (Guardianship): <i>Recognition and provision for the role of Kāi Tahu as customary Kaitiaki in the District</i></p> <p>Section 4.3.4 Objective 4 – Mahika Kai: <i>The limitation of the spread of weeds, such as wilding trees.</i></p> <p>Section 4.3.4 Objective 8 – Rakau (Trees): <i>The protection that some specific</i></p>	<p>Objective 4.3.4.1 is largely irrelevant to this plan change.</p> <p>The plan change is not the most appropriate way of achieving Objective 4.3.4.4 as while the Structure Plan requires clearance at the time of subdivision, following that there is no mechanism to control the spread of weeds on private land on an ongoing basis, which would be important if ecological gains are to be achieved.</p> <p>While it is somewhat unclear what is being referred to in Objective 4.3.4.8, it is noted that the Kai Tahu Ki Otago Natural Resource Management Plan</p>	<p>Objective 4.3.4.1 is largely irrelevant to this plan change.</p> <p>Retaining the status quo is an appropriate way of achieving Objective 4.3.4.4 as all the land will be vested in public ownership, thereby providing the opportunity for ongoing weed and wilding management.</p> <p>While Objective 4.3.4.8 is somewhat unclear, this option is likely to be an appropriate way of achieving this</p>	<p>Objective 4.3.4.1 is largely irrelevant to this plan change.</p> <p>This option is an appropriate way of achieving Objective 4.3.4.4 as the majority of the land will be vested in public ownership, thereby providing the opportunity for ongoing weed and wilding management.</p> <p>While Objective 4.3.4.8 is somewhat unclear, this option is likely to be an appropriate way of achieving this objective as, while protection is not</p>

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p><i>native tree or trees may be of cultural significance to Kāi Tahu.</i></p>	<p>(2005)⁶ lists 3 species that are present on this site. As such, while the S32 report notes that no issue were raised by iwi when consulted during the preparation of this plan change, it is noted that these species will not be protected by the plan change.</p>	<p>objective as, while protection is not assured, no clearance of the species listed in the Natural Resource Plan is proposed.</p>	<p>assured, no clearance of the species listed in the Natural Resource Plan is proposed.</p>
<p><u>Natural landscape, ecosystems, and visual amenity</u></p> <p>4.1.4 Objective 1 – Nature Conservation Values: <i>- The protection and enhancement of indigenous ecosystem functioning and sufficient viable habitats to maintain the communities and the diversity of indigenous flora and fauna within the District. Improved opportunity for linkages between the habitat communities.</i></p> <p><i>-The protection of outstanding natural features and natural landscapes.</i></p> <p>4.2.5 Objective: <i>Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.</i></p> <p>4.9.3 Objective 1 – Natural Environment and Landscape Values: <i>Growth and development consistent with the maintenance of the quality of the natural</i></p>	<p>The plan change is not the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.1.4.1 as it will not protect or enhance the indigenous ecosystems (although it is noted that it will retain connectivity) Objective 4.2.5 as the effects on the landscape cannot be avoided or sufficiently remedied or mitigated by the proposed rules and the effects are cumulative, and irreversible. The land is an area with little potential to absorb change, the development (including the planting) would not harmonise with the topography or landform (despite the controls imposed), and would not maintain the openness or natural character of the ONL and runs counter to the policy to discourage urban development within ONL's. Objective 4.9.3.1 as the plan change will enable new urban growth on land which is of outstanding landscape quality and ecologically significant, and will adversely affect visual amenity, Objective 15.1.3.4 as, while the subdivision design and rules have attempted to achieve this objective, the plan change does not adequately protect the outstanding natural landscapes, nature conservation values, and 	<p>Retaining the status quo is the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.1.4.1, as it will involve only minimal clearance of indigenous vegetation when track building occurs in the future and, provided some pest management occurs, will enable the regeneration of species that naturally exist on the site, thereby resulting in ecological gains over time. Objective 4.2.5 as development other than small scale recreationally based development will be avoided and, as such, landscape and visual amenity values will be protected. Objective 4.9.3.1, as the existing zoning enables growth within the low density zone and prevents urban development within the open space zone. Objective 15.1.3.4, as the current zonings protect the outstanding natural landscapes, nature 	<p>This option is an appropriate (but not the most appropriate) way of achieving:</p> <ul style="list-style-type: none"> Objective 4.1.4.1, for the same reasons as for option 2, noting that it is not as effective as the development will prevent 3,420m² from regenerating to indigenous vegetation over time. Objective 4.2.5 as development other than small scale recreationally based development will be avoided on those parts of the land with no ability to absorb development and the visual amenity and landscape effects from development on the 3 lots can be mitigated. It is, however, contrary to the policy to discourage urban development within ONL's. Objective 4.9.3.1 as, while the plan change will enable new urban growth on land which is of outstanding landscape quality,

⁶ Appendix 4 - Taoka Species list - "Taoka species" means the species of birds, plants, and animals described in Schedule 97 found within the Ngāi Tahu claim area (takiwā of Ngāi Tahu). Section 287 (NTCSA)

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p><i>environment and landscape values</i></p> <p>Section 15.1.3 Objective 4 Outstanding Natural Features, Landscape and Nature Conservation Values: <i>The recognition and protection of outstanding natural features, landscapes and nature conservation values.</i></p> <p>Section 20.1.2 Objective 1: <i>To protect and maintain natural ecological values and the open appearance of the Open Space Zone.</i></p>	<p>ecosystems or avoid or adequately mitigate adverse effects on the natural character and qualities of the environment and on areas of significant conservation value, or visual amenity values.</p> <ul style="list-style-type: none"> Objective 20.1.2.1 as neither the ecological values nor openness will be protected and maintained for reasons that are fully explained in the advice/ evidence of Ms Palmer and Dr Read, including net losses of up to 4,648m² if lots 13-24 were developed. 	<p>conservation values, and ecosystems and adequately mitigates adverse effects on the natural character and visual amenity.</p> <ul style="list-style-type: none"> Objective 20.1.2.1 as both the ecological values and open character are protected as explained in the advice/ evidence of Ms Palmer and Dr Read. 	<p>effects on visual amenity can be mitigated</p> <ul style="list-style-type: none"> Objective 15.1.3.4 as this small area could be developed in a manner that mitigates adverse effects on the quality of the environment and on visual amenity values. <p>This option is not the most appropriate way of achieving Objective 20.1.2.1 as ecological values and openness will not be protected and maintained in that part of the open space zone that would be developed.</p>
<p><u>Recreation and Amenity</u></p> <p>Section 4.4.3 Objective 1 – Provision of Reserves: <i>Avoid, remedy or mitigate the adverse effects on public open spaces and recreational areas from residential growth and expansion, and from the development of visitor facilities.</i></p> <p>Section 4.4.3 Objective 3 – Effective Use: <i>Effective use and functioning of open space and recreation areas in meeting the needs of the District's residents and visitors.</i></p> <p>Section 15.1.3 Objective 5 - Amenity Protection: <i>The maintenance or enhancement of the amenities of the built environment through the subdivision and</i></p>	<p>The plan change is not the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.4.3.1 as it would result in the significant reduction of reserve land previously agreed to be provided through RM060929. While the area of land agreed to may be well in excess of the minimum contribution, this is not an appropriate comparison to make as the applicant is no longer proposing to contribute the land which is the most valuable recreationally. Had this been the offer from the outset it may well not have been acceptable to Council. Objective 4.4.3.3, as the plan change will reduce the area of land to the point where the effective use/ functioning of it and its ability to meet the long term needs of residents and visitors will be significantly hampered. Due to 	<p>Retaining the status quo is the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objective 4.4.3.1, as it would avoid residential expansion into the open space area/ zone. Objective 4.4.3.3, as retaining the entire area of land preserves its current character and preserves the full range of opportunities for it to contribute to meeting the (as yet, undefined) long term recreational needs of residents and visitors. Objective 15.1.3.5 as this open space area is a key amenity of the nearby built environment Objective 15.1.3.6, as this ensures that the extent of public 	<p>This option is an appropriate way (but not the most appropriate way) of achieving these objectives for the reasons cited in respect of Option 2, except that rather than avoiding urban expansion into the open space area, it is mitigating the effects of development within it.</p>

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p><i>development process.</i></p> <p>Section 15.1.3 Objective 6: <i>To ensure effective public access is provided throughout the Peninsula Bay land.</i></p> <p>Section 20.1.2 Objective 2: <i>To enable public use of the Open Space Zone for passive or informal recreational activities.</i></p>	<p>the small area of useable space, conflicts between different types of recreational activities will be difficult if not impossible to avoid, remedy, or mitigate (at least without widening tracks and further vegetation clearance). Using the plan change process to determine the best use and design of the remaining open space does not appear to incorporate the needs of communities and has not involved effective community participation (policy 3.2).</p> <ul style="list-style-type: none"> Objective 15.1.3.5 as (relying on the advice of Ms Galavazi) the subdivision enabled by this plan change will not maintain or enhance the open space, which is a key amenity of this residential area. The provision of a toilet and upgraded track are not considered to outweigh the loss of open space land. Objective 15.1.3.6 as the reduction of the open space area contradicts the objective. <p>The plan change is not necessarily an inappropriate way of achieving Objective 20.1.2.2 as it still enables public access to land within the zone; albeit over a much smaller area of land.</p>	<p>access that was considered appropriate at the Outline Development Plan stage (RM060929) is provided.</p> <ul style="list-style-type: none"> Objective 20.1.2.2, as it will continue to enable public access to land within the zone. 	
<p><u>Infrastructure and Utilities</u></p> <p>Section 4.5.3 Objective 1 – Efficiency: <i>The conservation and efficient use of energy and the use of renewable energy sources.</i></p> <p>Section 14.1.3 Objective 1 – Efficiency: <i>Efficient use of the District's existing and future transportation resource and of fossil fuel usage associated with transportation.</i></p>	<p>The plan change is not necessarily inconsistent with Objective 4.5.3.1 but is not the most appropriate way of achieving it as it will enable more development at the urban edge when it would be more appropriate to enable greater density/development more centrally. Also, relying on Ms Palmer's evidence, it will not encourage the retention of indigenous forest vegetation on the site but, rather, would result in a net loss, and by establishing low-lying homes with expansive views, ongoing clearance and trimming is likely, despite</p>	<p>Retaining the status quo is the most appropriate way of achieving:</p> <ul style="list-style-type: none"> Objectives 4.5.3.1 and 14.1.3.1, as it avoids further development/sprawl at the urban edge and will maintain indigenous forest vegetation; Objective 14.1.3.3 as it avoids constructing roading and accessways within the sensitive open space zone. 	<p>This option is an appropriate way (but not the most appropriate way) of achieving these objectives for the same reasons that are cited in respect of Option 2, except this option does enable a small amount of further development at the urban edge, which is undesirable from an efficiency perspective.</p>

Objectives	Option 1 - plan change, as amended 7 July 2016	Option 2 - Status quo	Option 3 - plan change reduced in scale to provide for 3 LDR zoned lots
<p>Section 14.1.3 Objective 2 – Safety and Accessibility: <i>Maintenance and improvement of access, ease and safety of pedestrian and vehicle movement throughout the District.</i></p> <p>Section 14.1.3 Objective 3 – Environmental Effects of Transportation: <i>Minimal adverse effects on the surrounding environment as a result of road construction and road traffic.</i></p>	<p>best efforts to discourage this.</p> <p>Taking the objective as a whole, the plan change is an appropriate (although not the most appropriate) way of achieving Objective 14.1.3.1 despite the fact that the development does not constitute “consolidation” which would contribute to efficiency,</p> <p>The plan change is an appropriate way of achieving Objective 14.1.3.2</p> <p>The plan change is unlikely to be the most appropriate way of achieving Objective 14.1.3.3 as the additional roading and accessways are likely to have unmitigated adverse landscape effects.</p>	<p>Retaining the status quo is an appropriate way of achieving Objective 14.1.3.2, to the extent that it is relevant.</p>	

Appendix 4. Environment Court decision C010/2005

ORIGINAL

Decision No. C010/2005

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of two references under clause 15 of the
First Schedule to the Act

BETWEEN **INFINITY GROUP**

(RMA337/03)

DENNIS NORMAN THORN

(RMA352/03)

Appellants

AND **QUEENSTOWN-LAKES DISTRICT**
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Alternate Environment Judge D F G Sheppard (presiding)
Environment Commissioner P A Catchpole
Environment Commissioner M P Oliver

HEARING at Wanaka on 21, 22, 23, 24 and 25 June, and 20, 21, 22, 23 and 24
September, 2004.

APPEARANCES:

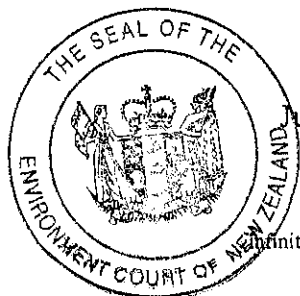
W P Goldsmith and J M Crawford for Infinity Group
P J Page and A Durling for D N Thorn
G M Todd and (from 20 September 2004) K Rusher for the Queenstown-Lakes
District Council
J R Haworth for the Upper Clutha Environmental Society Incorporated.



INTERIM DECISION

Table of Contents

INTERIM decision	2
Introduction.....	3
The site and its environment	3
Relevant planning instruments.....	5
Otago regional policy statement	5
The transitional district plan	5
The Queenstown-Lakes district plan	6
Variation 15	9
Contents	9
The sequence of events	10
The effect of the merger of Variation 15	12
Amendments to Variation 15.....	13
Authority for increased density.....	14
Arguments and evidence.....	15
Consideration	17
The law	17
The contents of the relevant submissions	18
The significance of Wanaka 2020	19
Decision	20
The consequences of the finding	22
The draft stakeholders' deed.....	22
Compliance with Section 32	24
The basis for decision	27
Landscape and visual amenity effects	29
Classification of landscape	29
Assessment of landscape and visual amenity effects.....	31
The parties' attitudes.....	31
The evidence	32
Our findings	33
Application of criteria.....	34
Is Variation 15 necessary to achieve the purpose of the Act?	34
Would Variation 15 assist the Council to control effects?	38
Would Variation 15 be the most appropriate means?.....	39
Does Variation 15 have a purpose of achieving the objectives and policies? ...	41
Summary of findings on criteria	44
Specific provisions of Variation 15 in issue	44
Link Road	44
Public open space.....	45
Residential flats.....	45
Status of removal of kanuka	46
Building height limits	47
Building appearance	47
Future driveways and walkways.....	48
Exercise of power under section 293	48
Has a reasonable case been presented?	49
Should opportunity be given to interested parties to consider the amendment? ..	51
Should the power should be exercised?	51
Part II of the Act	52
Matters of national importance	53
Matters for particular regard	54
The purpose of the Act.....	56
Judgement	56



Determinations.....	57
Costs	57

Introduction

[1] Lake Wanaka and its setting are renowned for their outstanding natural beauty. The main issue in these proceedings was whether a proposed extension of Wanaka town on a peninsula to the north-east should be disallowed or restricted because of adverse effects on landscape and visual amenity values.

[2] The Queenstown-Lakes District Council, at the request of the developer, proposed a special zone for the 75-hectare site that would enable a mixed-density residential development with up to 240 residential units, and open space areas. After hearing submissions, the Council increased the number of residential units from 240 to 400.

[3] Two reference appeals were lodged with the Court. One, brought by the developer, sought amendments to the special plan provisions. The other, brought by an opponent, sought that the previous Rural General zoning of the site remain.

[4] The two references were heard together. The parties were the developer (Infinity Group), which generally supported the special zoning for residential development; the Council, which also generally supported the special zoning; the other referrer, Mr D N Thorn, who opposed the special zoning for development; and the Upper Clutha Environmental Society, which opposed provision for development at the lake end of the site.

[5] The references having been lodged in May 2003, prior to the commencement of the Resource Management Amendment Act 2003, there was no dispute that the proceedings have to be decided as if that amendment Act had not been enacted.¹

The site and its environment

[6] The site is roughly rectangular in shape, and has an area of 75.484 hectares. It is located on the Beacon Point Peninsula, immediately north of a residential area served by Rata Street and Hunter Crescent; and east of another residential area known as Penrith Park. To the north, the site abuts a recreation reserve, which in

¹ Resource Management Amendment Act 2003, s 112(2).



turn abuts Lake Wanaka. The adjoining land to the east is exotic forest, and to the south-east, pasture.

[7] The southern boundary of the site is about 2.3 kilometres from the Wanaka Town Centre. The western boundary of the site is about 700 to 800 metres from Lake Wanaka, and the northern boundary is about 120 metres from the lake edge.

[8] The site is generally rolling, with shallow gullies, rounded ridges and a predominantly westerly aspect. The northern boundary is near the top of a steep scarp which drops to the lake. The eastern boundary is about 130 to 300 metres from a ridge.

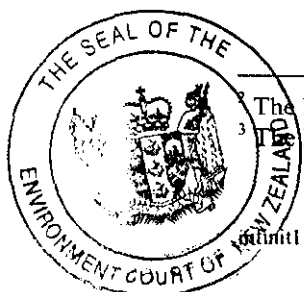
[9] The average level of the lake is about 279 metres above sea level. The highest point on the site is about 360 metres above sea level, and the lowest point about 305 metres above sea level.

[10] Most of the site has a slope pattern that ranges from 1 in 7 to flatter than 1 in 20, but there are areas near the eastern boundary, the south-western end and the north-eastern end that slope between 1 in 7 to 1 in 3. The escarpment down to the lake beyond the northern end of the site is generally steeper than 1 in 3.

[11] In pre-historic times, the site was overrun by glacial advances which left morainic deposits, more recently about 23,000² and 18,000³ years ago. The younger (Hawea) moraine generally lies between the 300- and 360-metre contour lines on the site.

[12] The vegetation of the site is mainly exotic pasture grasses, and there are scattered stands kanuka and matagouri mainly at the northern end of the site and along parts of the eastern boundary. There are also pockets of kanuka in gullies and patches elsewhere on the site.

[13] The site is visible to varying degrees from parts of Lake Wanaka, and from parts of West Wanaka, including the Millennium Walkway along the western shore, and residential areas to the west and south of the site. More particularly, the northern part of the site is visible from the lake, and the elevated slopes near the



² The Mt Iron Advance.
³ The Hawea Advance.

eastern boundary are visible from the west and south, as well as from parts of the lake.

[14] Some people cross the south-eastern corner of the site to gain access to walking and cycle tracks in the adjacent plantation, and others use cycles on tracks through the kanuka at the northern end. The owner has acquiesced in that, but the site is private property and there is no public right of access over it. There is a popular walking path through the lakeside reserve to the north of the site.

Relevant planning instruments

[15] There are three planning instruments applicable to the site: the Otago Regional Policy Statement; the transitional district plan; and the partly operative Queenstown-Lakes District Plan.

Otago Regional Policy Statement

[16] The Otago Regional Policy Statement became operative on 1 October 1998. Among other matters, there are objectives and policies of protecting natural features and landscapes from inappropriate subdivision, use and development;⁴ ensuring public access opportunities to and along margins of lakes are maintained;⁵ protecting areas of natural character, outstanding natural features and landscapes of lakes;⁶ consolidation of urban development to make efficient use of infrastructure;⁷ avoiding, remedying, or mitigating adverse effects of subdivision, land-use and development on landscape values;⁸ and maintaining the natural character of areas with significant indigenous vegetation.⁹

The transitional district plan

[17] The transitional district plan had been prepared under the former Town and Country Planning Act 1977, and is deemed to be the operative district plan under the

⁴ Objective 5.4.3, Policy 5.5.6, and Objective 6.4.8.

⁵ Objective 6.4.7 and Policy 6.5.10.

⁶ Objectives 6.4.8 and 9.4.1(c).

⁷ Policy 9.5.2(a).

⁸ Policies 9.5.4 and 9.5.5(c).

⁹ Policy 5.5.7(i); Objective 10.4.3 and Policy 10.5.2.



Resource Management Act 1991¹⁰ until replaced by a district plan prepared under the 1991 Act.

[18] By the transitional plan, the northern part of the site (Mr J C Kyle estimated about one-quarter to one-fifth) is zoned Rural L (Landscape Protection), and the rest is zoned Rural B.

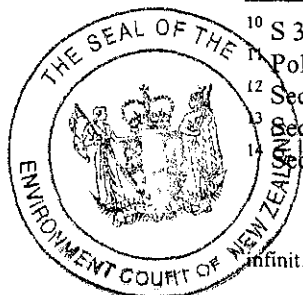
[19] There is a policy of ensuring that areas of high visual amenity are protected by zoning.¹¹ The zone statement for the Rural L Zone records that the shores of Lake Wanaka in the vicinity of Wanaka town are worthy of protection; and states an objective of providing for greater development of the town in depth, complemented by the Rural L zone restricting development around the lake margin.¹²

[20] The Rural B zone is a general rural zone applying to land suitable for pastoral use, although other uses compatible with scenic values and land stability are also permitted.¹³

The Queenstown-Lakes District Plan

[21] The proposed Queenstown-Lakes District Plan was prepared under the Resource Management Act, and was publicly notified on 10 October 1995. The site was in the Rural Downlands Zone, but by decision on submissions, it was included in the Rural General Zone, a zone which primarily encourages retention of land for farming carried out in such a way that protects and enhances nature conservation and landscape values.¹⁴ The plan provides objectives, policies and methods applicable to managing the effects of subdivision and buildings that address landscape and visual amenity values.

[22] The proposed district plan was made partly operative from 11 October 2003, but many provisions of Sections 4 and 5 (District-wide Issues and Rural Areas), among others, are not yet operative.



¹⁰ S 373(1).
¹¹ Policy 3.5.02.
¹² Section 3.5.01.
¹³ Sections 3.3.01 and 3.3.02.
¹⁴ Section 5.3.1.1.

[23] The plan states a vision of community aspirations for a sustainable district. This contains a statement that undeveloped ridgelines and visually prominent landscape elements that contribute to the District's well-being (among other features) are protected from activities that damage them.¹⁵

[24] In Chapter 4 on district-wide issues, there are (among others) objectives of preserving the remaining natural character of lakes and their margins, protecting natural features.¹⁶ There are (among others) policies of long-term protection of geological features;¹⁷ of sites having indigenous plants of significant value;¹⁸ and of avoiding adverse effects on the environment.¹⁹

[25] The district-wide provisions relating to landscape and visual amenity, provide for classification of rural landscapes into three classes: Outstanding Natural Landscape, Visual Amenity Landscape and Other Rural Landscape.²⁰ Specific policies and assessment matters apply to rural landscapes in each of those classes. However the Plan does not identify urban landscapes, nor does it provide specific policies and assessment criteria in respect of them.

[26] Even so, there are policies on future development that are not specific to particular classes of rural landscape. They include a policy of avoiding, remedying or mitigating adverse effects of development where the landscape and visual amenity values are vulnerable to degradation;²¹ and of encouraging development in areas with greater potential to absorb change without detracting from landscape and visual values.²² There is a policy of avoiding sprawling subdivision and development along roads in visual amenity landscapes.²³ There is also a policy of ensuring that the density of subdivision and development does not increase so the benefits of further planting and building are outweighed by adverse effects on landscape values of over-domestication of the landscape.²⁴ The environmental results anticipated from

¹⁵ Section 3.6, 2nd paragraph.

¹⁶ Objective 4.1.4.1.

¹⁷ Policy 4.1.4.1.1, 4.1.4.1.4, and 4.1.4.1.12.

¹⁸ Policies 4.1.4.1.4 and 4.1.4.1.11.

¹⁹ Policy 4.1.4.1.7.

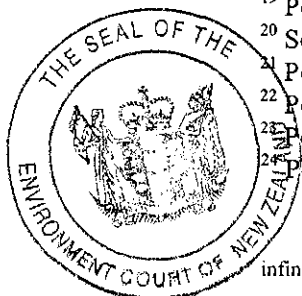
²⁰ Section 4.2.4.

²¹ Policy 4.2.5.1(a).

²² Policy 4.2.5.1(b).

²³ Policy 4.2.5.6(d).

²⁴ Policy 4.2.5.8(a).



implementing the policies and methods relating to landscape and visual amenity include protection of the visual and landscape resources and values of lakes.²⁵

[27] For an objective of efficient use of energy, there is a policy of promoting compact urban forms which reduce the length of and need for vehicle trips.²⁶

[28] In a part of the plan about urban growth, the Council identified an issue of protecting landscape values and visual amenity.²⁷ In that context there is an objective of growth and development consistent with the maintenance of the quality of the natural environment and landscape values.²⁸ There is a related policy of protecting the visual amenity, and avoiding detracting from the values of lake margins.²⁹ Associated with another residential growth objective are policies of enabling urban consolidation where appropriate and encouraging new urban development in higher density living environments.³⁰ The environmental results anticipated from implementing the policies and methods relating to urban growth include avoidance of development in locations where it will adversely affect the landscape values of the district.

[29] Similarly, in a part of the plan about residential areas (district-wide), there is a policy of enabling residential growth having primary regard to protection of the landscape amenity.³¹ In respect of Wanaka in particular, there is an objective that residential development is sympathetic to the surrounding visual amenities of the rural areas and lakeshores.³²

[30] A resource management consultant, Ms N M Van Hoppe, gave the opinion that the Rural General zone is an inappropriate zoning for the site, on the grounds that it is not efficient or commercially viable to farm it due to its small area, being adjoined on two boundaries by residential activities, and only being accessible through residential areas. The witness also considered the Rural General zoning of the site inappropriate because it does not allow for the residential development that the site is capable of absorbing.

²⁵ Para 4.2.6(vi).

²⁶ Para 4.5.3.1.1.

²⁷ Para 4.9.2.

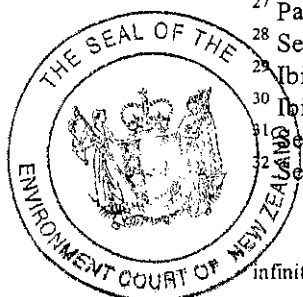
²⁸ Section 4.9.3, Objective 1.

²⁹ Ibid, Policy 1.1.

³⁰ Ibid, Policies 3.1 and 3.2 for Objective 3.

³¹ Section 7.1.2, Policy 1.4.

³² Section 7.3.3.



[31] The zoning of a piece of land in a proposed plan can be changed by the Court on an appropriate appeal. To that extent evidence about the appropriateness of the existing zoning of the land might be relevant on appeals arising from such a variation. However, the issue on appeals arising from a variation is focused on the appropriateness of the zoning and other provisions proposed by the variation. If those provisions are not upheld, and the variation is cancelled, the existing zoning remains.

Variation 15

[32] The Council proposed the special zoning for Infinity Group's site by publishing a variation (identified as Variation 15) to its proposed district plan. We will summarise the contents of the variation, and the sequence of events in respect of it. We will then address the question whether the variation has merged with the proposed district plan, and describe further amendments to the special zone agreed on by Infinity Group and the Council, and presented by them to the Court.

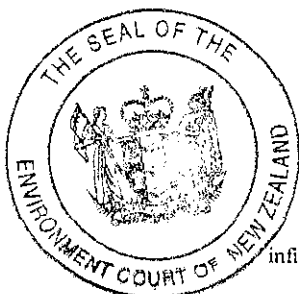
Contents

[33] Variation 15 creates a special Peninsula Bay Zone and proposes that the site be rezoned accordingly. The zone includes a layout and design plan for development of the site, which identifies separate activity areas (or subzones) in the site.

[34] The Variation also provides statements of issues, objectives and policies, and implementation methods for the Peninsula Bay Zone. The implementation methods including rules containing site and zone standards governing (among other things) the development of sites, including lot sizes, the extent of earthworks, the heights, locations, density and appearance of buildings, and the heights and appearance of plantings. The rules also govern the classes of activities in the zones.

[35] In terms of Variation 15 as notified, the zone would limit development to a total of 240 residential units. There were to be four activity areas:

- Area 1 would be a low-density residential area (minimum lot size 1000 square metres) in the centre of the site, covering about half the area of the zone, in which complying buildings would be permitted activities:



- Area 2, about 20 % of the area of the zone, was to be a rural-residential area along the northern and eastern edges of the zone, in which buildings would be discretionary activities.
- Area 3 was to be a higher-density residential area in the middle of the site, about 5% of the zone area, in which complying buildings would be permitted activities:
- Area 4 was to be for open space and recreation, applying to about 20% of the site area around the residential areas, in which buildings would be non-complying activities.

The sequence of events

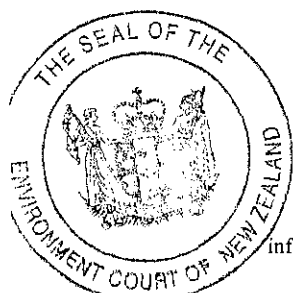
[36] The Council publicly notified Variation 15 on 13 October 2001, the time for lodging submissions closing on 23 November 2001, by when 19 submissions in opposition had been lodged.

[37] On 15 March 2002, before it had notified a summary of submissions for further submissions to be lodged, the Council purported to put the variation on hold. The purpose was to await a community consultation process under the style Wanaka 2020, for which a workshop was to be held in May.

[38] On 19 July 2002, a Council committee discussed the views expressed at the workshop, and decided to proceed with Variation 15. The Council then asked the developer, Infinity Group, for amended layout and zone provisions to allow for 400 dwellings.

[39] On the next day the Council published its summary of the submissions on the variation. The time for lodging further submissions closed on 26 August, by when 35 further submissions from 5 people had been lodged (including 12 by Mr Thorn).

[40] On 29 October 2002 Infinity Group provided the Council with an amended plan increasing the maximum number of dwellings in the zone from 240 to 400, increasing the extent of Area 3 (higher-density residential), and reducing the minimum lot size from 1000 square metres to 700 square metres (Area 1).



[41] In February 2003 the Council heard the submitters following which, on 17 April 2003, it reached its decision on the submissions, altering the special zone provisions in these respects in particular:

- (a) Creating new Areas 5a and 5b at the northern end of the site, and making provision for protection of native vegetation in Area 5b;
- (b) Increasing to 400 the maximum number of residential units in the zone;
- (c) Reducing the minimum lot size in Area 1 to 700 square metres;
- (d) Identifying 24 additional sites in Area 1; and
- (e) Providing for multi-unit development in Area 3.

[42] On 2 May 2003 the Council gave notice of its decisions on the submissions; and on 26 May Infinity Group and Mr Thorn lodged with the Environment Court reference appeals arising from the variation.

[43] By their appeal, Infinity Group sought deletion of Rule 12.19.3.5 prohibiting removal of native vegetation, disturbance of earth, structures and residential and visitor accommodation activities in Area 5b; and consequential amendments to other rules and to the layout and design plan.

[44] By his appeal, Mr Thorn sought that the site be zoned Rural General. In effect he sought that Variation 15 be cancelled.

[45] The Council contended that the Variation should be confirmed, albeit with some amendments to the provisions for the Peninsula Bay Zone:

- (a) Prohibiting removal of kanuka outside nominated residential building platforms in Areas 2 and 5b;
- (b) Specifying maximum building heights by reference to datum levels for residential building platforms in Areas 2 and 5b;



(c) Deleting the exemption for earthworks within residential building platforms in Areas 2 and 5b, so that assessment criteria encouraged carrying them out in the period between 1 May and 31 October.

[46] The Upper Clutha Environmental Society contended that the zoning should be amended to prohibit development of the part of the site at the northern end, effectively Area 5.

The effect of the merger of Variation 15

[47] A question arose about the significance of Variation 15 having, by clause 16B of the First Schedule to the Act, merged in the proposed district plan, both being at the same procedural stage.

[48] Mr Todd, for the Council, submitted that the Court should start with the existing Rural General zoning, consider the zoning proposed by the variation, and that it is open for it to come to a determination allowing for something within that spectrum.

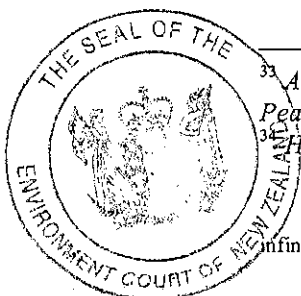
[49] Counsel for Infinity Group, Mr Goldsmith, addressed this question in his closing submissions. He observed that in considering a resource-consent application in respect of the site, the consent authority would have regard to the district plan as amended by Variation 15; and the former Rural General Zone would not form part of the evaluation of the application.³³ Otherwise it would be faced with the complex and unwieldy task of assessing an application by reference to three (or possibly more) planning instruments.

[50] Counsel then addressed the question whether that approach should apply to consideration of a variation. He remarked that there is an inherent conflict between the two subclauses of clause 16B, and that this case is further complicated by the proposed plan being partly operative. Mr Goldsmith also submitted that there is no presumption in favour of any particular zoning of the site, the proceedings being more in the nature of an inquiry,³⁴ from which the Court has to determine the most appropriate zoning for the land.

³³ *Awly Developments v Christchurch City Council* Environment Court Decision C103/2002, para 53;

³⁴ *Peat v Waitakere City Council* Environment Court Decision A82/04, para 66.

³⁵ *Hibbit v Auckland City Council* [1996] NZRMA 529, 533.



[51] Clause 16B(1) prescribes that a variation shall be merged in and become part of the proposed instrument as soon as the variation and the proposed instrument are both at the same procedural stage.

[52] Variation 15 reached the stage of being subject to determination of reference appeals to the Environment Court on 26 May 2003, when these appeals were lodged. The proposed district plan was also at that stage then. It did not become partly operative until 11 October 2003. So we find that by Clause 16B(1), the variation merged in and became part of the proposed district plan on 26 May 2003.

[53] That does not mean that the Rural General zoning of the site provided by the proposed plan as amended by decisions on submissions is irrelevant. At the least, if the variation is cancelled, so the special Peninsula Bay Zone no longer applies to the site, the application to it of the Rural General zoning would be revived.

[54] Even so, we accept Mr Goldsmith's submissions that there is no presumption in favour of any particular zoning of the site, the Court being required to determine the most appropriate zoning for the land (with the limit, submitted by Mr Todd, that it falls within the range between the status quo and that proposed by the variation).

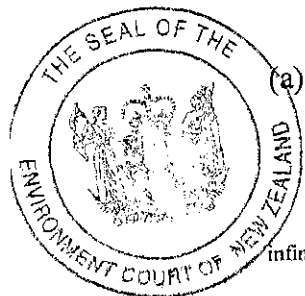
[55] We doubt whether clause 16B(2) affects that. We infer that subclause (2) is intended to apply to resource-consent applications and enforcement action, not to reference appeals.

Amendments to Variation 15

[56] The Council amended Variation 15 by its decisions on submissions. By its appeal Infinity Group sought further amendments. By the time of the appeal hearing, Infinity Group and the Council had reached agreement on numerous further amendments to the provisions of the special Peninsula Bay Zone. Without detailing them all, the more important are these:

[57] Altering the layout plan so that 6 lots in Area 5 are returned to Area 1, and identifying 11 sites with building platforms in Area 5a, instead of 6 larger sites with no identified platforms:

- (a) Inserting objectives, policies, implementation methods, explanation and reasons specific to Area 5:



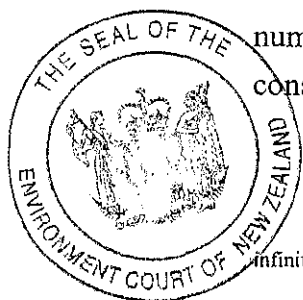
- (b) Making buildings in Area 5a controlled activities on identified building platforms, otherwise discretionary activities;
- (c) Reclassifying removal of native vegetation, earthworks, structures, residential and visitor accommodation activities in Area 5b from prohibited to non-complying;
- (d) Amending the control on buildings in Area 5a that break a ridgeline as viewed from any public place so that it applies only to views from up to 700 metres from the shoreline;
- (e) Reducing building height limits for Area 5a from 5 metres to 4.5 metres, and providing for a limit of 11 units in that area.

[58] Subsequent to the agreement between Infinity Group and the Council on those amendments, Infinity Group proposed further amendments to the special Peninsula Bay Zone provisions, both prior to, and during the appeal hearing. Infinity Group proposed the further amendments on the basis that the hearing was an iterative process intended to achieve the best zoning outcome for the land, including the most appropriate zone provisions.

[59] We accept that the Variation contains elaborate zoning provisions for comprehensive development of a considerable area of land in ways that are intended to avoid, remedy and mitigate adverse effects on the environment. But the successive amendments, however well intentioned, certainly presented the opposing parties and the Court with a proposal that continued to be altered up to the end of the appeal hearing. So we doubt that the proposal presented by Infinity Group to the Council in 2001 had been prepared with sufficient care having regard to the importance of the site and the scale of the development.

Authority for increased density

[60] In the variation as notified in 2001, the special Peninsula Bay Zone provided for a maximum of 240 residential units, and a minimum site area of 1000 square metres. By its decision on the submissions, the Council increased the maximum number to 400, reduced the minimum size to 700 square metres, and made consequential changes to the layout plan. Mr Thom challenged the Council's



authority to make those amendments in that way, contending that no submission on the variation had sought them.

Arguments and evidence

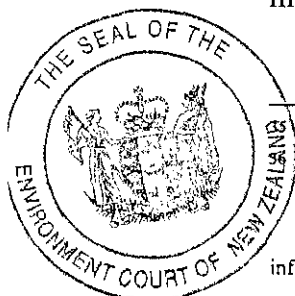
[61] Mr Thorn's planning witness, Mr W D Whitney, gave the opinion that people who had not lodged submissions on the variation might have done so, if it had provided for 400 residential units, with the consequential increase in traffic effects. He observed that anyone wishing to debate the merits or otherwise of the amendments had been deprived of the opportunity to do so, as the amendments had not been provided for in a submission notified for further submissions.

[62] In cross-examination, Mr Whitney accepted that in hearing the submissions, the Council had had before it a traffic engineer's report which, at the Council's request, had considered the effects arising from a 400-unit development. The witness also accepted that a person who had read the original notification of the variation but had not checked the notification of submissions could find that the outcome is different from what was originally notified, but he observed that people do have opportunity to respond to what is in submissions.

[63] The Council relied on a primary submission on the variation by Ian and Sally Gazzard, in which they had stated that they had no objections to high density housing in suitable areas as they believed there is also a need for small sites. That submission had been notified in summary form for further submissions.

[64] Its planning witness, Ms N M van Hoppe, stated that the Council had obtained specialist reports during its decision-making process which had concluded that increased traffic volumes due to increase in density and volume within the zone would result in no more than minor effects that could be absorbed by current and proposed services.

[65] Infinity Group submitted that the assessment of whether the increase in residential density was reasonable and fairly raised by submissions should be approached in a realistic workable fashion, rather than from the perspective of legal nicety.³⁵ Mr Goldsmith also relied on *Haslam v Selwyn District Council*.³⁶



Royal Forest & Bird Society v Southland District Council [1997] NZRMA 408 pg 10.
Environment Court Decision C71/93, p 10.

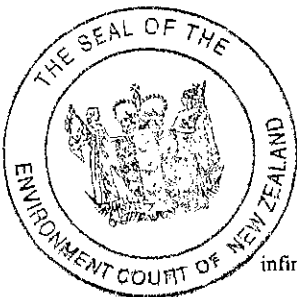
[66] Infinity Group relied on the Gazzards' primary submission, and on a further submission by the Wanaka Residents' Association supporting the Gazzards' statement about high-density housing and need for smaller sites. Infinity Group also relied on the report of the Wanaka 2020 workshop that community discussion had indicated that the Peninsula Bay development could be beneficial with greater density.

[67] Mr Page (counsel for Mr Thorn) contended that the Gazzards' submission had not raised an increase in density, as it did not state any relief sought by them; and that it can only be understood as support for the high density residential area (Area 3) of the zone as notified. On the Wanaka Residents' Association's further submission, counsel argued that a further submission cannot extend the scope of a primary submission.

[68] Mr Whitney gave the opinion that what the Gazzards had sought by their submission was that adequate infrastructure be planned and installed before further development takes place. They had not sought a decision increasing the number of residential units or reducing the lot sizes. The witness also gave the opinion that the Wanaka Residents' Association, by its further submission, had supported the Gazzards' submission on high density housing "provided adequate surrounding infrastructure can be provided".

[69] Mr Whitney observed that the Wanaka 2020 workshop report was an informal document that did not have status as a management plan or strategy document prepared under another Act to which regard is to be had in terms of Section 74(2)(b)(i) of the Act. The report summarised general conclusions from workshop discussions, and responses to those conclusions developed by facilitators and the technical support team. Mr Whitney gave his reasons for suggesting that an increase in density in response to that report might be promoted closer to Wanaka town centre than increased density at Peninsula Bay.

[70] Mr Whitney did not agree with Ms Van Hoppe's opinion that the Wanaka 2020 workshop should be considered as part of the consultation for the variation, because once a variation is notified, consideration is limited to its contents and to the submissions and further submissions lodged in response to it.



Consideration

[71] In considering this question we state our understanding of the law; state our findings about the contents of the relevant submissions; address the significance for this purpose of the Wanaka 2020 workshop report; reach our conclusion; and then consider the consequences of it for the case.

The law

[72] It has been part of New Zealand planning law for decades that despite arguments about the realities of the situation, and appeals to common sense, a planning authority cannot alter a variation except to the extent that the alteration is sought by a submission lodged in accordance with the prescribed procedure.³⁷ The application of this principle to the Resource Management Act regime was confirmed by the High Court in *Countdown Properties v Dunedin City Council*³⁸ and in *Royal Forest & Bird v Southland District Council*³⁹ cited by Mr Goldsmith. A planning authority cannot alter a variation beyond what is reasonably and fairly raised in a submission. For example, a submission seeking co-ordinated development does not provide a basis for deleting a zone.⁴⁰ However the process of deciding whether an alteration is beyond that limit is not to be bound by formality, but approached in a realistic workable fashion, rather than from a viewpoint of legal nicety.⁴¹

[73] A further submission is confined to either supporting or opposing a submission.⁴² It cannot introduce additional matters.⁴³

[74] The decision in *Haslam* is not quite in point. It related to amendments to a proposal the subject of a resource consent application, not to a planning authority's decision on submissions.

³⁷ See *Wellington City v Cowie* [1971] NZLR 1089 (CA); *Whitford Residents' Association v Manukau City Corporation* [1974] 2 NZLR 340 (SC); *Nelson Pine Forest v Waimea County Council* (1988) 13 NZTPA69 (HC).

³⁸ [1994] NZRMA 245 (HC).

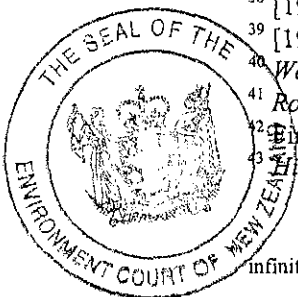
³⁹ [1997] NZRMA 408 (HC).

⁴⁰ *Weatherwell-Johnson v Tasman District Council* Environment Court Decision W181/96.

⁴¹ *Royal Forest & Bird Society*, supra.

⁴² First Schedule, clause 8.

⁴³ *Hilder v Otago Regional Council* Environment Court Decision C122/97.



The contents of the relevant submissions

[75] The Gazzard's submission on the variation was produced in evidence.⁴⁴ It is a completion of a standard form issued by the Council. In the part where submitters are to state the specific provisions of the variation that the submission relates to, the Gazzards had entered : "A suitable infrastructure to supply adequate services, i.e. roads, water, electricity and sewage." In the section for stating the decision sought from the Council, the Gazzards had entered: "That adequate infrastructure is planned and installed before further development takes place. Roads widened, or do you restrict parking to only one side of roads?"⁴⁵

[76] In the section for stating the nature of the submission, the Gazzards set out their concerns about infrastructure being provided. They also set out their submission about the design of the development, referring to colours, materials, and tree plantings. That is the context in which this passage appears:

We would like to see more open spaces between older existing established areas and understand 'Infinity' are addressing that issue with those concerned.

We have no objections to High Density housing in suitable areas as we believe there is also a need for small sites.

The narrowness of existing entry roads to the proposed area virtually precludes two way traffic when cars are parked on both sides of the road.

[77] The Council and Infinity Group did not rely on any other submission. We have examined the other submissions produced in evidence, and have found nothing in them that would support their argument that the Council was entitled to make the changes in question to the variation as notified.

[78] The further submission by the Wanaka Residents Association states support for the Gazzards' submission in this way:

We support the part of the submission 15/8/1 – "Have no objection to high density housing in suitable areas, as believe there is a need for smaller sites."

[79] The Association's further submission gave this statement of its reasons:

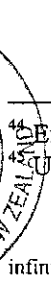


Exhibit 2.
Underlining in the original.

The Wanaka 2020 Workshop identified this area as one suitable for some increased density. We support this provided adequate surrounding infrastructure can be provided.

The significance of Wanaka 2020

[80] We now consider whether the Wanaka 2020 Workshop referred to by the Wanaka Residents Association in its further submission is significant in deciding whether the Council was entitled to make the changes in question to the variation as notified.

[81] Mr Thorn contended that Wanaka 2020 was a non-RMA process, was not required to be consistent with Part II of the Act, or with the provisions of the partly operative district plan, and does not provide a lawful basis for the alterations to the variation in question.

[82] Mr Whitney did not criticise the Wanaka 2020 programme, but gave the opinion that the report of the workshop is an informal document, and observed that it is described as:

... a summary of general conclusions from workshop discussions, and responses to those conclusions developed by the facilitators and the technical support team.
It is a first step only ...

[83] Mr Whitney considered that the report does not have status as a management plan or strategy document prepared under another Act to which regard is to be had in terms of section 74(2)(b)(i) of the Act.

[84] The Council acknowledged that the findings of the Wanaka 2020 report have no statutory basis, but contended that they confirmed the position the Council took in its decision. Ms Van Hoppe stated that in the Wanaka 2020 workshop the community had indicated that the proposed zone could absorb greater density.

[85] Infinity Group maintained that the Council's decision is supported by the findings of the community planning exercise recorded in the Wanaka 2020 report. A planning consultant, Mr Kyle, stated that although the Wanaka 2020 plan has no statutory basis in terms of the Local Government Act, it is intended to form part of the Council overall community plan required by it, and is reflective of how the Wanaka community wishes to deal with urban growth issues.



[86] Whatever value the Wanaka 2020 programme may have, it is not a substitute for the well-established process under the Resource Management Act by which the public are entitled to notice of proposals to alter planning instruments, and have legal rights to take part in formal hearings about them. There is no evidence that the public were given notice that the Wanaka 2020 workshop might lead to increasing the density under the Peninsula Bay Zone the subject of Variation 15 from 250 to 400 residential units. The evidence indicates that expressions of views on that topic were the subject of development by facilitators and a technical support team, but we are unable to form an opinion on whether that was an objective process. Further, people interested in the content of Variation 15 were entitled to confine their attention to steps in the procedure prescribed by the Resource Management Act, and should not be prejudiced by not having taken part in the Wanaka 2020 exercise, however valuable that might have been for other purposes.

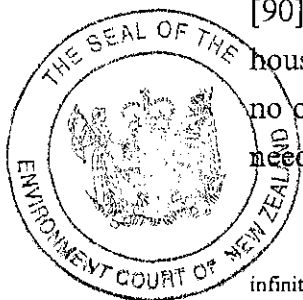
[87] In short, we find that conclusions of the Wanaka 2020 workshop, or any report of it, cannot be relied on to justify the Council's decisions to make the alterations in question to Variation 15.

Decision

[88] We now consider whether the alterations to the number of units and minimum site area made by the Council were reasonably and fairly raised by the Gazzards' submission, approaching the Council's task in a realistic, workable way, rather than being bound by formality or legal nicety.

[89] Reading their submission as a whole, we do not accept that it indicated any wish by the Gazzards for any increase in the number of residential units provided for by the variation. Variation 15 as notified contained provision for a higher-density residential area (Area 3). The Gazzards' submission on the variation was about adequate and timely provision of infrastructure in a development that included that provision for a higher-density residential area. There is nothing in the submission capable of being understood as a wish for more extensive higher-density development.

[90] Rather, the Gazzards' statement that they had no objection to high-density housing, can only be understood in its context as stating no more than this: they had no objection to high-density housing on suitable areas, as they believed there was a need for smaller sites, but they wanted the infrastructure services provided first.



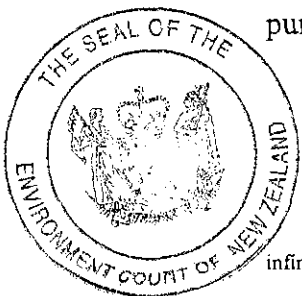
[91] This is not to form an opinion bound by formality, or legal nicety. We place no great weight on the absence of anything about density in the section of the submission form for stating the decision sought from the Council. We have considered the document as a whole. We find that its contents do not support a finding that the Gazzards wanted more high-density development, nor that they wanted an increase in the number of residential units.

[92] We have also read the Gazzards' submission as a whole to consider whether it indicated any wish by them for a reduction in the minimum lot size provided for by the variation. The only reference to lot size is in the same sentence in which they stated that they had no objection to high-density housing. In that sentence the Gazzards were stating that they had no objection to high-density housing as they believed there is a need for smaller sites. In context, they were not asserting that site sizes should be smaller than the variation provided for. Rather, they were expressing their support for its provision for smaller sites (ie 1000 square metres), but urging that adequate infrastructure should be installed before development takes place.

[93] Again, we do not place reliance on points of form or of legal nicety. It is a matter of reading the sentence in its context. We find that reading it in that way does not support a finding that the Gazzards were wanting the variation to provide for site sizes that would be smaller than those provided for. To the contrary, they had no objection to what the variation provided in that respect, and they wanted the Council to provide that the infrastructure for the development must be provided first.

[94] The Residents Association's submission supported the Gazzards' submission in that respect. Even if the Residents Association had wanted even higher density, or even smaller sites, the Association would not have been able to give effect to that merely by lodging a further submission supporting the Gazzards' primary submission, because a further submission cannot go further than the primary submission to which it relates. In the absence of a primary submission seeking more residential units or smaller sites than the notified variation provided for, the Council could only have given effect to such a wish by promoting a further variation.

[95] To conclude, we uphold Mr Thorn's challenge in this respect, and find that the Council did not, in the circumstances, have power to amend Variation 15 as it purported to do:



(a) by increasing from 240 to 400 the maximum number of residential units; nor

(b) by reducing the minimum lot size from 1000 square metres to 700 square metres.

Consequently the variation has to be treated as if it had not been amended in those respects; and as if the amendments made to the layout and design to give effect to those amendments had not been made.

The consequences of the finding

[96] Infinity Group contended that if the Court were to come to that conclusion, it should issue an interim decision allowing them opportunity to propose an amended layout and design plan providing for a maximum of 240 residential units; and observed that Infinity Group would be free to pursue an additional 160 units by further application. The alternative would be to revert to the layout and design plan the subject of the notification of the variation.

[97] As the latter no longer represents what any party wants, it would be preferable (depending on the outcome of other issues in these proceedings) to accede to Infinity's proposal. If Infinity Group should later apply for consent to increase the maximum number of residential units, natural justice would require that the application should be notified.

The draft stakeholders' deed

[98] Infinity Group maintained that a significant positive environmental outcome that would result from confirmation of Variation 15 is the Area 4 park and central facility that would be provided for the general public. The developer would have an obligation under a stakeholders deed to be entered into between Infinity Group and the Council to construct them, to maintain them for 5 years, leaving the Council with a choice that they vest in the Council as a recreation reserve, or continue as a privately-owned facility accessible by the public at large.

[99] Counsel accepted that the proposed stakeholders' deed would represent a private contract, the parties to which would be free to vary or cancel it at any time; and that no-one else would be entitled to enforce compliance with it.



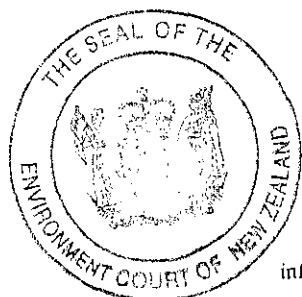
[100] The Council accepted that even if the Council were to enter into such a deed, it could have little significance for the Court's decision in these proceedings; that if the park and facility were vested in the Council, their value could be taken into account in assessing the amount of any financial contribution levied on the developer; but that the Council could not bind or fetter its judgment in that regard in advance.

[101] The Court invited further submissions from Infinity Group on the significance of the proposed deed. Infinity Group stated that it was content to leave the central facility (and the possibility of it containing a swimming pool) to be settled with the Council in future, and did not rely on its provision as a positive outcome that would necessarily result from confirmation of the variation. In respect of the proposed park and proposed re-vegetation of it by the developer, Infinity Group offered amendments to zone provisions to ensure that the park and re-vegetation would be implemented.

[102] Infinity Group submitted that the proposed stakeholders' deed would have lesser significance to the proceedings and may have none. It did rely on the intention that the Council, which has responsibility under the Act, would be a party to the deed, and that the public could reasonably expect that it would enforce agreements that it has entered into, while acknowledging that the public would not be able to resort to enforcement proceedings if the Council failed to do so. Counsel also contended that there would be a positive advantage in that a future owner of land in the zone would not be able change the outcomes provided by the deed through a consent or variation process.

[103] In our judgement the Court should not place weight on the proposed stakeholders' deed in deciding these appeals for these reasons:

- (a) Infinity Group and the Council have not entered into such a deed; and although Infinity Group may genuinely intend to do so if the Council is willing, there is no basis for assurance that the deed will be entered into.
- (b) Even if such a deed was entered into, the processes under the Act for variation and enforcement of plan provisions would not apply in respect of it. As a private contract, the parties could agree –for purposes that might have nothing to do with the purpose of the Act– to vary or cancel it; and the public would in practice have no recourse in law.



[104] Where a private promoter of a variation or plan change wishes that intended public facilities be taken into account as positive environmental outcomes, the better practice is for the obligation to provide them be imposed by rules or other implementation methods in the plan.

Compliance with Section 32

[105] Mr Thorn contended that the Council had failed to comply with its duties under section 32 of the Act in respect of the objectives, policies, rules and other methods in Variation 15 in these respects:

- (a) The Council had not itself independently performed those duties, but had simply adopted documentation in that respect that had been prepared by or on behalf of Infinity Group. Counsel argued that the obligation fell on the Council, and that it could not pass the responsibility to a developer and merely adopt its documentation.
- (b) The variation does not achieve Part II of the Act as expressed in district-wide objectives and policies of the plan that are no longer in contention by reference appeal, and is not consistent with those objectives and policies—
 - i. In that they discourage development in landscapes that are vulnerable to change and contribute significantly to amenity values; and
 - ii. In not making a comparison with likely benefits and costs of development on alternative sites.

[106] The Council contended that it had fulfilled its duties under section 32 in respect of the variation in that, although the preparatory work had been done for Infinity Group, the Council had ensured that the work had been done properly in accordance with the requirements of the Act.

[107] Infinity Group observed that although a submission on the variation had arguably raised compliance with section 32, this issue had not been raised by Mr Thorn in his reference, and contended that the issue is not before the Court. Infinity Group also contended that on the evidence the variation did comply with section 32, in that:



- (a) Variation 15 is the most appropriate means of exercising the Council's functions;
- (b) Variation 15 would not be contrary to the district-wide objectives and policies of the district plan on landscape values, particularly as the issue is whether the site is appropriate for further development in relation to all the objectives and policies:
- (c) There is no obligation under the section to make a comparison with development of alternative sites.

[108] As the Court has to decide these appeals as if the 2003 Amendment Act had not been enacted, we refer to the version of that section as originally enacted, and incorporating the amendments to it made by section 2(1) of the Resource Management Amendment Act (No 2) 1994. Subsection (1) directed that before adopting an objective, policy, rule or other method in relation to a function described in subsection (2), the person concerned was to have regard to certain matters described in paragraph (a), carry out an evaluation described in paragraph (b), and be satisfied of matters described in paragraph (c). Subsection (2) provided that those duties applied (among others) to a local authority in relation to the public notification under clause 5 of Schedule 1, of a variation, and in relation to a decision made by a local authority under clause 10 of Schedule 1, on any variation.

[109] Subsection (3)⁴⁶ provided:

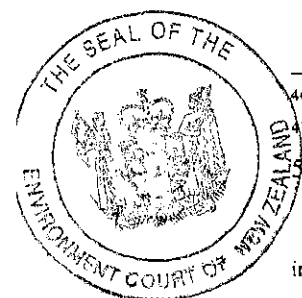
A challenge to any objective, policy, rule or other method, on the ground that subsection (1) of this section has not been complied with, may be made only in a submission made under—

...
(b) Schedule 1.

[110] However the Environment Court can take into account any inadequacy of a section 32 analysis to determine the appropriateness of any part of the plan on its merits; but does not have jurisdiction to declare the instrument invalid on that account.⁴⁷

⁴⁶ As substituted by the 1994 amendment.

⁴⁷ *Kirkland v Dunedin City Council* (2001) 7 ELRNZ 44 (HC); upheld on appeal [2001] NZRMA 529; 7 ELRNZ 227 (CA).



[111] Consideration of a challenge to the adequacy of compliance with the section is restricted to cases in which that issue was raised in the submission giving rise to the reference.⁴⁸ However that does not preclude the Court from taking into account matters referred to in section 32 in deciding the appropriateness of contents of a variation on their merits.

[112] Because he was absent from the district at the time, Mr Thorn did not lodge a primary submission on Variation 15. He did lodge further submissions in support of primary submissions that had been lodged by Jadwich Fryckowska, R and P McGeorge, D J Cassells & others, G and H Crombie, Heather Hughes, Martin White, Lindsay Williams, and N Brown; and in opposition to a primary submission by Infinity Group. None of the primary submissions in respect of which Mr Thorn lodged further submissions in support contained a challenge based on failure to comply with section 32, nor did Mr Thorn's further submissions in support of them.

[113] The primary submission by Infinity Group, in respect of which Mr Thorn lodged a further submission in opposition, did contain this assertion:

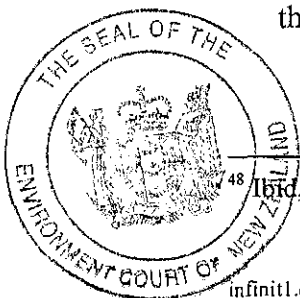
The section 32 Report was adequate and appropriately addresses the proposal. In particular it identified relevant issues, assessed objectives and policies, assessed rules and methods, and outlined consultation. The Variation will not detract from the landscape values of the District.

[114] Although that primary submission expressly asserted that the section 32 report had been adequate and appropriately addressed the proposal, Mr Thorn's further submission in opposition to that primary submission did not raise a challenge on the basis that section 32 had not been complied with.

[115] Mr Thorn's reference to this Court of Variation 15 did not contain an allegation to the effect that the Council had failed to comply with the duties imposed on it by section 32 in respect of the variation.

[116] So we find that,–

(a) having not lodged a primary submission challenging the variation on the ground that section 32(1) had not been complied with,



⁴⁸ Ibid, paras 15 and 20 of the Judgment of the HC; and para 17 of the Judgment of the CA.

- (b) having not lodged a further submission supporting someone else's primary submission containing such a challenge,
- (c) having not lodged a further submission opposing Infinity Group's assertions in that respect, and
- (d) having not alleged non-compliance with the section in his reference,⁴⁹

– Mr Thorn was not entitled to contend, in these proceedings, that the Council had failed to comply with those duties. Therefore we reject Mr Thorn's contention to that effect.

[117] To the extent that Mr Thorn's contentions and evidence relate to the appropriateness of contents of the variation in respects that may be influential to the outcome of his appeal, we consider them on the merits in other sections of this decision.

The basis for decision

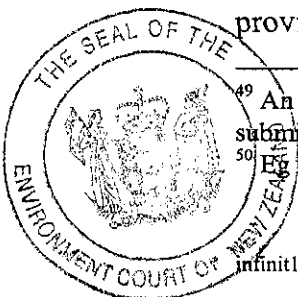
[118] Infinity Group submitted that there is no presumption in favour of any particular zoning of the site, and that the basis for deciding these appeals is that the variation has to–

- (a) be necessary in achieving the purpose of the Act;
- (b) assist the Council to carry out its functions of the control of actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose;
- (c) be the most appropriate means of exercising that function; and
- (d) have a purpose of achieving the objectives and policies of the Plan.

[119] Those submissions were founded on earlier decisions⁵⁰ and derived from provisions of the Act. They were not contested.

⁴⁹ An allegation to that effect in the reference would not have sufficed without having arisen from a submission containing a challenge that s 32 had not been complied with.

⁵⁰ Eg *Hibbit v Auckland City Council* [1996] NZRMA 529, 533.



[120] Mr Thorn contended that in considering whether the proposed zoning of the site is necessary to achieve the purpose of the Act, that purpose should be determined by looking at the settled objectives and policies of the plan, as was done in *Suburban Estates v Christchurch City Council*.⁵¹ Infinity Group disputed that and contended that a number of objectives and policies remain subject to challenge, a presumption that the purpose of the Act is fully represented by the objectives and policies of the plan would not be justified, citing *Dickson v North Shore City Council*.⁵² Mr Thorn contested that any material objectives and policies were still subject to challenge; and urged that the Court's analysis should begin with the question whether the variation would achieve Part 2 as expressed through the district-wide objectives and policies of the plan.

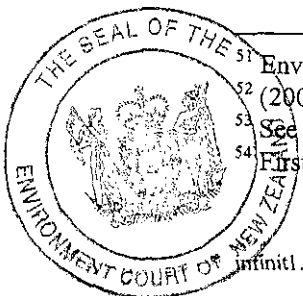
[121] A variation is a method by which a local authority can propose an alteration to a proposed planning instrument.⁵³ This is done by a process of publication, opportunities for submissions and further submissions, hearing and reasoned decision by the local authority, and opportunity for appeal to the Environment Court.⁵⁴

[122] The scope of a variation is not restricted by objectives and policies of the proposed plan. Indeed it is permissible for a variation to alter general objectives and policies. The process is comparable with that for adopting the proposed plan itself.

[123] The *Suburban Estates* and *Dickson* cases were appeals about the contents of proposed district plans, not about variations to them.

[124] Because the scope of a variation is not restricted by objectives and policies of the proposed instrument that is being altered, we do not accept Mr Thorn's submission that it has to be necessary to achieve the purpose of the Act as incorporated even in settled objectives and policies of the instrument. Rather, we hold that in this respect a dispute about a variation should be tested—

- (a) by whether it achieves the purpose of the Act stated in section 5; and
- (b) by whether it has a purpose of achieving the settled objectives and policies of the instrument that are not being altered by the variation.



⁵¹ Environment Court Decision C217/2001.

⁵² (2002) 8 ELRNZ 172.

⁵³ See definition in s2(1).

⁵⁴ First Schedule, cl 16.

[125] In accordance with section 32(1), the criterion in item (a) gives effect to the overarching importance of the purpose of the Act; and the criterion in item (b) should ensure that if the variation is upheld, the instrument as altered retains its coherence.

Landscape and visual amenity effects

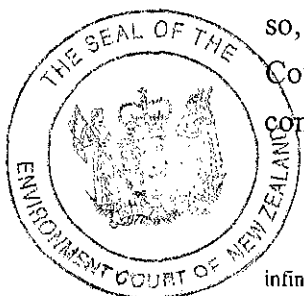
[126] We now address the main issue in the decision of these proceedings: Whether and to what extent the development provided for by the variation would have adverse effects on the landscape and amenity values of the locality. There was no question in respect of the development of most of the site. The issue was limited to development of two discrete areas of the site: Areas 2 and 5.

[127] It was Mr Thorn's case that parts of those areas are vulnerable to change and are not capable of absorbing the development on them that the variation provides for; and that the controls proposed by the variation would not be sufficient to protect the landscape and the natural amenity values of Lake Wanaka. Area 2 slopes up to the pine forested ridge which runs along the east of and above the site. Mr Thorn urged that the integrity of that ridge as a rural backdrop to Wanaka should be maintained. Area 5 is at the northern end of the site, farthest from existing development and closest to Lake Wanaka. Mr Thorn (supported by the Environmental Society) contended that the part of this area where development could be visible from the lake and lakeshore should be left undeveloped.

Classification of landscape

[128] An important question in considering the effects on landscape and visual amenity values is whether the site is in an outstanding natural landscape (ONL), or a visual amenity landscape (VAL); or whether it is not part of a rural landscape at all, but part of an urban landscape. The classification identifies which objectives and policies are applicable.

[129] Infinity Group's primary position was that the landscape of which the site forms part is not a VAL, but instead is part of the Wanaka urban landscape. If that is so, the policies applicable to VAL landscapes are not directly relevant. But if the Court finds that the site is part of a VAL, then Infinity Group contended that confirmation of Variation 15 would be consistent with those policies.



[130] The Council contended simply that the site is entirely in a VAL; but Mr Thorn contended that the part of the site (being in Area 5) between the lake shore and the ridge above it is correctly classified as being part of the ONL that includes the lake itself; and that the rest of the site is in a VAL. He contended that it is not open in law to classify it as being in an urban landscape.

[131] Three witnesses who were qualified in landscape and visual amenity matters gave evidence: Mr D J Miskell, Mr B Espie, and Ms D J Lucas.

[132] Mr Miskell gave the opinion that the site is not part of an ONL, a VAL, or an ORL; but being adjacent to existing residential areas in the south and west, is a natural extension of Wanaka town.

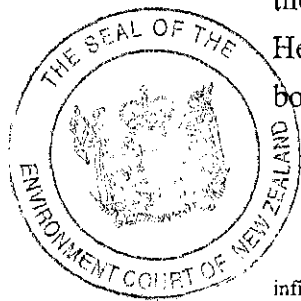
[133] Mr Espie gave the opinion that two landscapes meet in the vicinity of the site: a rolling agricultural landscape to the south-east, and a more remote and dramatic landscape to the north-west. Each contains pockets that share characteristics of the other, and a line between them would be arbitrary. He classified the former as a VAL, and the latter as an ONL; and as the site does not contain any outstanding natural feature, he classified it as part of a VAL.

[134] Ms Lucas gave the opinion that the VAL extends across the site to the lakeside ridge; and that from the ridge to the lakeshore is included within the ONL of the lake.

[135] The site is adjacent to the urban area to the west and south, is adjacent to a rural area to the east, and to the lake to the north. The site itself contains no urban development, but has a rural appearance. We are not persuaded by Mr Miskell's reasons for treating it as part of the urban landscape.

[136] Setting aside for separate consideration the northern part of the site beyond the ridge above the lake, we accept the opinions of Ms Lucas and Mr Espie that it is in a VAL.

[137] Mr Espie extended that classification to the northern part of the site beyond the ridge above the lake because it does not contain any outstanding natural feature. He acknowledged that the VAL meets an ONL in the vicinity of the site, and that the boundary between them would be arbitrary. Ms Lucas included the part beyond the



ridge in the ONL because in landscape and visual terms it is part of the landscape of the lake.

[138] We find Ms Lucas's approach more persuasive. The fact that the site is one land holding should not influence its landscape classification. The topography of the site lends itself to separate classification of the part beyond the northern ridge, visible from the lake and locations from which the lake can be viewed.

[139] In summary, we find that the northern part of the site beyond the ridge above the lake is correctly classified ONL; and the rest of the site is correctly classified VAL.

Assessment of landscape and visual amenity effects

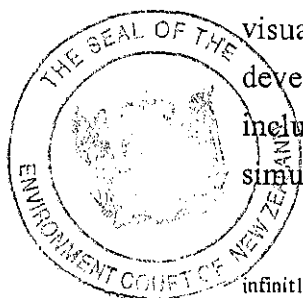
[140] Next we have to consider the landscape and visual amenity effects of the development that would be provided for by the variation.

The parties' attitudes

[141] Mr Thorn contended that the higher parts of the site adjacent to the eastern boundary (Area 2) and Area 5 are vulnerable to change and not capable of absorbing the development that the variation would provide for; and that the variation would not sufficiently protect the natural and landscape values associated with the lake. He contended that this area should be left largely undeveloped, and in that he was supported by the Environmental Society.

[142] Infinity Group accepted that the backdrop ridge is important and acknowledged that stricter controls are required for Area 2 (than elsewhere in the zone) to ensure an appropriate interface between the lower land and the higher pine-clad ridge behind. It contended that the level of development proposed for Area 2 is appropriate, and would not have effects on landscape and visual amenities sufficient to warrant the land being given some form of non-residential zoning.

[143] All parties agreed that the most sensitive area of the site in landscape and visual amenity terms is Area 5 at the northern end. Infinity Group urged that the development provided for in that area had been very carefully assessed. This had included computer-aided inter-visibility analysis, and preparation of a video-simulation based on computer-modelled dwellings built to maximum permitted



heights and within the identified building platforms, taking into account controls on external colours and the requirement to retain existing kanuka vegetation. It contended that the development provided for in Area 5 would not have adverse effects on landscape and visual amenity values which would warrant that area of land being zoned in a way which would exclude development.

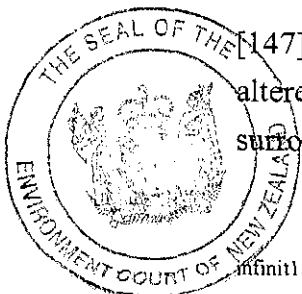
The evidence

[144] Ms Lucas gave the opinions that the development provided for by the variation would have significant adverse effects on the important landscape and natural amenity values of the lake and its enclosing landform; and on the eastern ridge which provides a natural backdrop and context for the town. She expressed concern that even with strict location and height controls for residences along the lakeside ridge, the landscape protection would be dependent on the kanuka vegetation being adequately retained. That witness gave the opinion that with premium prices for such sections, expansive views would be sought from inside and outside each house; protection of the kanuka screening could not be assured; and that any buildings visible on that ridge would reduce the naturalness of the lake experience.

[145] Mr Espie gave the opinion that the Peninsula Bay zone would have the effect of extending the area of Wanaka townscape up the slope that forms the middle-ground of views that are available from the west. This extension would take the form of a horizontal strip behind existing development but, because the existing ridgeline would not be broken, the appreciation of landscape that is had by observers to the west of Peninsula Bay would not fundamentally change. His opinion depended on ensuring the retention of existing kanuka, and controlling building heights and colours.

[146] Mr Miskell considered that sensitive design controls would protect and enhance the amenity values which are the most vulnerable to change. He acknowledged that residential buildings would inevitably alter the appearance of the site from some viewpoints in the surrounding landscape, but considered that the site has the ability to absorb the changes because an effective rural setting will remain.

[147] Mr Miskell considered that the natural character of Lake Wanaka would be altered only to a minor degree because the site is only a minor part of the surrounding landscape. Views from the lake to the north of the site would



effectively be unchanged, and views from the west would be seen in the context of existing development. He gave his opinion that overall amenity values would be enhanced by the creation of a pleasant living environment, recreational attributes would be enhanced, and much of the remnant kanuka will be retained.

Our findings

[148] We accept that the development provided for elsewhere on the site than in Areas 2 and 5 would not have significant adverse landscape and visual amenity effects. However we do not accept that the potential effects of development in Areas 2 and 5 would or could be adequately or appropriately avoided, remedied or mitigated by the controls on the height, bulk, location or appearance of buildings, nor by requirements to retain vegetation.

[149] While it remains alive in suitable locations and height, vegetation can hide, or at least soften the view of development. But hiding development, or softening its appearance, does not excuse providing for development that should not be provided for in an ONL, or in a VAL where it would not have potential to absorb change without detracting from landscape and visual values.

[150] Further we do not have confidence that district plan requirements for retaining vegetation will necessarily be effective in the long term. As well as being vulnerable to fire, disease, and natural mortality, the continued life of vegetation may depend on the extent to which it is perceived to obstruct valued views.

[151] If there is to be development in sensitive areas, there should certainly be controls on earthworks, and on the height, bulk, location and appearance of buildings and on sealed surfaces, so that their appearance recedes into the background. However the question in these proceedings is whether development should be provided for in those areas at all.

[152] We bear in mind that Area 5 is largely in an ONL, in which development would be visible from public places, and detract from views of otherwise natural landscape. Area 2 is in a part of the VAL, and development would be visible from public places and affect the naturalness of the landscape. We find that both areas are vulnerable to change, and neither is capable of absorbing the development the variation would provide for.



[153] In respect of the development of Area 2, we have not been persuaded by Mr Espie's opinion that the appreciation of the landscape from the west would not fundamentally change. From there the present landscape is rural, and possesses visual amenity. However much the sight of it is hidden or softened by vegetation, however much its prominence is mitigated by compliance with controls on earthworks and the height, bulk, location or appearance of buildings, that part of the landscape would no longer be rural. It would be changed to rural-residential.

[154] Counsel for Infinity Group submitted that, by comparison with Mr Miskell, Ms Lucas had made only an extremely cursory assessment of the potential effects of buildings in Area 5, limited to brief comments in two paragraphs of her rebuttal evidence. We do not criticise Mr Miskell, but we found Ms Lucas's reasons for her opinions realistic and persuasive.

[155] We accept Ms Lucas's opinions, and find that the development provided for by the variation in Areas 2 and 5 would have significant adverse effects on landscape and visual amenity values.

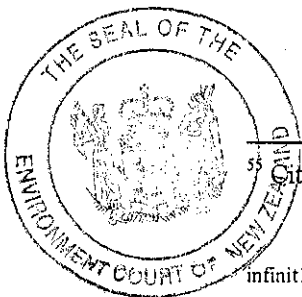
Application of criteria

[156] Having come to our findings on that critical issue, we now consider the variation by reference to the four criteria already identified, to assist our decision whether it should be upheld or cancelled.

Is Variation 15 necessary to achieve the purpose of the Act?

[157] The first criterion is whether the variation is necessary to achieve the purpose of the Act.

[158] Infinity Group submitted that in applying this test, the word 'necessary' should be understood in the sense of being desirable or expedient in achieving the purpose.⁵⁵ It contended that the purpose of the Act would be better achieved if provision is made in the district plan for a special zoning to enable a mixed-density community development on the site, rather than it retaining a rural zoning, in that:



⁵⁵ Citing *Countdown Properties (Northlands) v Dunedin City Council* [1994] NZRMA 145, 152 (FC).

- (a) The proposed Peninsula Bay Zone represents a logical extension of the residential part of east Wanaka:
- (b) It supports the Council's strategy of managing growth in and around urbanised areas:
- (c) It is consistent with the findings of the Wanaka 2020 community planning report:
- (d) Overall amenity values would be enhanced through creation of a pleasant living environment with improved recreational opportunities and retention of much of the remnant kanuka, enhancing the certainty that these environmental outcomes would be achieved.

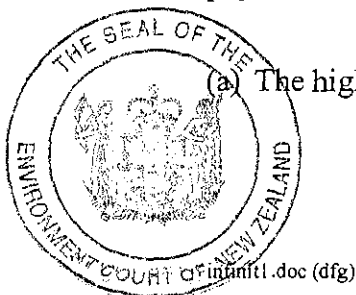
[159] Three qualified planners gave evidence on this topic: Mr Kyle, Ms Van Hoppe, and Mr Whitney.

[160] Mr Kyle gave the opinion that the variation is necessary to achieve the purpose of the Act on four main grounds:

- (a) There is not enough land zoned residential at Wanaka to accommodate continuing growth:
- (b) The proposed Peninsula Bay zone serves the Council strategy of urban consolidation and development of compact urban forms centred on existing settlements in accommodating urban growth:
- (c) It gives effect to the recommendations of the Wanaka 2020 report favouring increasing density to avoid sprawl:
- (d) The site is suitable and the development would not give rise to adverse environmental effects or impinge on significant landscape values.

[161] Ms Van Hoppe gave the opinion that Variation 15 would be effective in achieving the purpose of the Act in that sustainable management of natural and physical resources would be achieved in these respects:

- (a) The high and low density residential use would be an efficient use of the site:



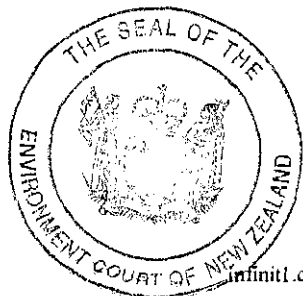
- (b) The Peninsula Bay zone would provide a practical and logical boundary for Wanaka avoiding sprawling subdivision:
- (c) The rate of residential development would be consistent with proposed capacity of service infrastructure:
- (d) The character of the Wanaka residential zone would be retained:
- (e) Natural resources in the site having significant value, such as native vegetation, and ecological values, would be protected.

[162] Mr Whitney questioned whether the variation is necessary in achieving the purpose of the Act. He referred to research by a Council official, Ms V Jones, that had been reported to the Council's Strategy Committee, showing that the existing zoning provided capacity for 2843 additional dwellings at Wanaka; for 679 more in Rural-Residential and Rural-Lifestyle zones; together with further capacity in nearby townships. From that Mr Whitney concluded that there is no urgency for providing additional residential-zoned land at Wanaka.

[163] Mr Whitney also gave the opinion that development to the south-east of the town would provide for growth of the town in areas accessible to the town centre, business and industrial zones, and other services available in central Wanaka.

[164] Ms Van Hoppe concurred with Mr Whitney that, based on Ms Jones's research, there is no immediate urgency in providing for residential growth at Wanaka; but she observed that –

- (a) Ms Jones's research had assumed that all consents for residential subdivision and development would be exercised, and owners of land zoned residential with capacity for further subdivision or development would do so prior to the Council providing for further growth;
- (b) As market forces would dictate the pace of residential development within the Peninsula Bay zone, it might be some time before its full capacity would be realised.



[165] Mr Kyle responded that Ms Jones's model does not respond to the preferences and aspirations of individual landowners, so the rate of release of land for infill development cannot be predicted reliably.

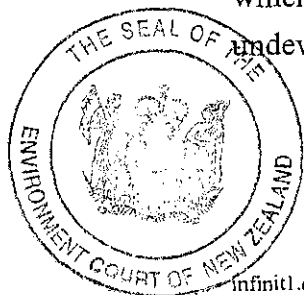
[166] We accept Infinity Group's submission that in applying this test, the word 'necessary' has to be understood as desirable or expedient. But the variation has to be desirable or expedient for achieving the purpose of the Act, being the sustainable management of the natural and physical resources concerned. The explanation in section 5(2) of sustainable management refers to two main elements: the enabling of people and communities to provide for their social, economic, and cultural well-being, health and safety; and the constraints referred to in paragraphs (a), (b) and (c), which include safeguarding the capacity of ecosystems, and avoiding, remedying and mitigating adverse environmental effects.

[167] The first consideration then is whether provision for a further 240 dwellings at Wanaka is desirable or expedient. There are indications both ways.

[168] In support, it may reasonably be inferred that upholding the variation would enable Infinity Group, and ultimate occupiers of dwellings provided in accordance with the Peninsula Bay Zone, to provide for their social and economic well-being.

[169] Without implying any criticism of Ms Jones's valuable work, we understand the limitations of the results that were mentioned by Ms Van Hoppe and Mr Kyle. We also accept that it would take some years before the full capacity of the Peninsula Bay zone would be realised. Even so, the considerable extent of the unused capacity for further dwellings in the current provisions of the plan leaves ample scope for the market to respond to the preferences and aspirations of landowners and would-be residents without the site being developed at all.

[170] The Council's wishes to consolidate residential growth at Wanaka so as to avoid sprawl, and to provide a variety of densities, could be achieved without providing for the site to be zoned as proposed. If those wishes were achieved without the proposed rezoning of the site, the significant native vegetation on the site would not be placed at risk; nor would the landscape and visual amenity values, to which the northern and eastern edges of the site could continue to contribute if undeveloped.



[171] In short, the zoning may be favourable for those taking part in the development, whether as developer, or as purchasers of residential lots or dwellings, or as users of the recreational facilities to be provided. However we have not been persuaded that residential development of the site is needed now to accommodate the growth of Wanaka, or to enable the community to provide for its social or economic well-being.

[172] In our judgement, Variation 15 is not necessary to achieve the purpose of the Act, even giving the word 'necessary' the meaning of desirable or expedient. The environmental and ecological outcomes would not be improved by upholding the variation rather than by cancelling it.

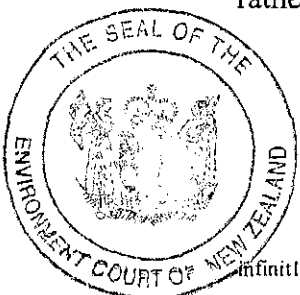
Would Variation 15 assist the Council to control effects?

[173] We now apply the second criterion: Whether the variation would assist the Council to carry out its functions of the control of actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose.

[174] Infinity Group contended that the variation would assist the Council to do so by managing Wanaka's growth, planning for the future of the site in an integrated manner designed to enhance overall amenity values without detracting from the landscape values and natural character of Lake Wanaka.

[175] Mr Kyle supported that contention, referring to the variation enabling mixed density development, recognising the landscape sensitivity of parts of the site, providing for protection of natural values, and minimising effects of development beyond the site. He gave the opinion that the resulting development would be in harmony with the landscape and visual amenity values of the area, and would not be incongruous with the residential development surrounding the site.

[176] Mr Whitney gave the opinion that integrated management of effects of the use, development or protection of the land resource is fundamental. He observed that the variation would provide for development at the northern extreme of Wanaka, rather than providing for a compact urban form.



[177] We accept Mr Whitney's point in that respect. We find that the Council's function of controlling effects of the use and development of the site would be assisted by the provisions of the variation identified by Mr Kyle, as far as they go. But they do not go far enough to assist it to control development so that it avoids adverse effects on the landscape and visual amenity values of the environment of development at the northern and eastern edges of the site.

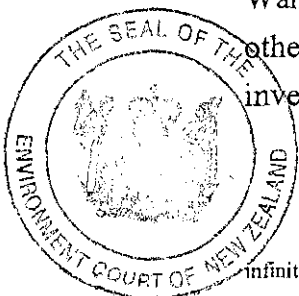
Would Variation 15 be the most appropriate means?

[178] The third criterion is whether the variation is the most appropriate means of exercising the Council's function of controlling actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose.

[179] Infinity Group contended that the variation is the most appropriate means of doing so, in that the Peninsula Bay Zone would ensure that amenity values, and the quality of the environment, is maintained and enhanced, while retaining and protecting large areas of vegetation. It also relied on the benefit to the general public of the proposed park and central facility proposed for Area 4. It urged that those outcomes would not be achieved if the variation is cancelled so that the rural zoning of the site would be reinstated.

[180] In his evidence in this respect, Mr Kyle listed aspects of the variation that he considered are beneficial, including the provision for mixed-density residential development, recognising the landscape sensitivity of parts of the site, providing for protection of natural values, and minimising effects of development beyond the site. The witness concluded that those provisions are efficient, appropriate and effective in assisting the Council to manage Wanaka's urban growth.

[181] Mr Whitney observed that the report to the Council on the analysis and evaluation of the variation in terms of section 32 had advised that the Council had to consider thorough investigations of alternative sites and directions for growth (advice with which the witness agreed). Mr Whitney stated that he had found no evidence of a thorough investigation of alternative sites and directions for growth at Wanaka having been undertaken. As already mentioned, this witness identified other means of providing for growth of Wanaka, and gave the opinion that investigation of alternative sites and directions for growth should occur.



[182] The criterion is whether the variation is the most appropriate means of exercising the Council's function. The use of the word 'most' gives effect to section 32(1)(c)(ii), which directs that a person adopting a method in a planning instrument is to be satisfied that it is--

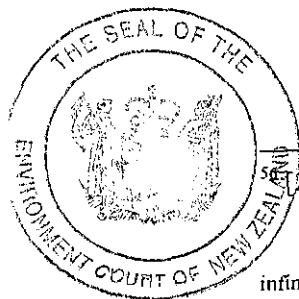
...the most appropriate means of exercising the function, having regard to its efficiency and effectiveness relative to other means.

[183] On its face, that direction calls for a comparison between the means proposed and other possible means of exercising the Council's function, in order to achieve the Act's purpose.

[184] In his evidence on this topic, Mr Kyle identified provisions of the variation that he considered beneficial. He acknowledged that there are a number of sites around Wanaka that are suitable for accommodating growth. He addressed other means than variation of authorising development of the subject site (resource consent, district plan review, privately promoted plan change). But he did not address the question whether the variation, containing those provisions for development of the subject site, is the *most* appropriate means of exercising the function.

[185] Infinity Group contended that in these proceedings consideration of other possible sites for accommodating growth would not be correct or appropriate, and consideration should not be given to whether the variation providing for development of the subject site is the *most* appropriate means of exercising the Council's function in comparison with development of other sites. Counsel argued that on a variation there is no obligation to do so, relying on the High Court Judgment in *Brown v Dunedin City Council*.⁵⁶

[186] In that Judgment the High Court held that section 32(1) does not contemplate that determination of a site-specific proposed plan change will involve a comparison with alternative sites. The learned Judge affirmed that the assessment should be confined to the subject site, and observed it would be unrealistic and unfair to expect those supporting a site-specific plan change to undertake the task of eliminating all other potential sites within the district.



[187] *Brown's* case related to a plan change rather than a variation. But having considered the learned Judge's reasoning, we see no basis for not applying it to a site-specific variation, such as that the subject of these proceedings. Accordingly we accept Infinity Group's contention, and hold that this criterion does not require consideration of whether the variation providing for development of the subject site is the *most* appropriate means of exercising the Council's function in comparison with development of other sites.

[188] Even so, no planning witness gave the opinion that the provisions of the Peninsula Bay Zone would be the *most* appropriate means of exercising the Council's function of controlling actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose.

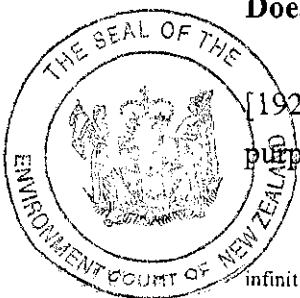
[189] Mr Kyle identified a number of beneficial aspects of it. So did Ms Van Hoppe, but she identified respects in which, even with amendments agreed on by Infinity Group and the Council, there may result in too little control over development in Area 5 at the northern end of the site (which is sensitive for landscape and visual amenity values). In cross-examination by counsel for Infinity Group, Ms Van Hoppe resiled on the status of removal of native vegetation not in public view; and accepted that later amendments proposed had addressed another point about building heights.

[190] Mr Whitney gave the opinion that the provisions for development of elevated parts of the site (especially at the northern end) would not preclude adverse effects on visual amenity from the lake surface and elsewhere, nor make adequate provision for public access there.

[191] Reviewing the evidence as a whole, we do not find in it an adequate foundation for finding that the revised provisions of the Peninsula Bay Zone (as proposed at the Court hearing) would be the *most* appropriate means of exercising the Council's function of controlling actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose.

Does Variation 15 have a purpose of achieving the objectives and policies?

[192] We now consider the variation by the fourth criterion, whether it has a purpose of achieving the settled objectives and policies of the Plan. Logically this



criterion only applies in respect of methods that do not implement objectives and policies specific to the variation.

[193] We have summarised the relevant objectives and policies. They include protection of natural resources including the natural character of lakes, outstanding rural landscapes, and visual amenity values. They also promote urban consolidation and compact urban forms by higher density living environments.

[194] Infinity Group maintained that the variation is generally consistent with the objectives and policies of the plan; that it achieves those addressing the peripheral expansion of urban areas; and respects those relating to landscape and visual amenity.

[195] Mr Thorn contended that the variation would not achieve Objective 4.2.5.1 and associated Policies 1(a) to (c), relating to identification of parts of the district with greater potential to absorb change in preference to those vulnerable to degradation. His counsel argued that once the parts of the district most capable of change have been identified, an assessment is required to ensure that development harmonises with local topography and ecological systems and other nature conservation values as far as possible. He contended that as the process has not been carried out, the proposed zoning does not have a purpose of achieving that objective and associated policies.

[196] Counsel for Infinity Group responded that in considering Variation 15 as a whole, Objective 4.2.5.1 should be applied on a 'macro' basis rather than a 'micro' basis. He contended that the issue is whether in relation to that objective the site is appropriate for further development. He urged that although landscape and visual amenity issues are important, it is equally important to provide for the growth being experienced and to provide for open space and for recreation.

[197] We quote Objective 4.2.5.1, and the associated policies in question:

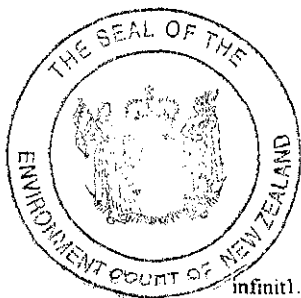
Objective:

Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Policies:

1 Future Development

- (a) To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation.



- (b) To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.
- (c) To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.

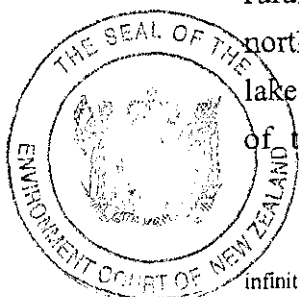
[198] Mr Thorn may be right in suggesting that Policies 1(a) and (b) involve identifying parts of the district with greater potential to absorb change and those vulnerable to degradation. But that has not yet been done, no doubt because the plan is not yet fully operative. By definition variations are proposed at the stage when the plan is not fully operative. So we do not accept the fact that Variation 15 is proposed prior to the Council giving effect to its policy of identifying parts of the district should influence our decision on whether the variation should be cancelled.

[199] Rather we consider that the appropriate question is whether the development that the variation would authorise—

- (a) would avoid, remedy or mitigate adverse effects on landscape and visual amenity values;
- (b) would do so in an area where they are vulnerable to degradation, rather than having potential to absorb change without detracting from those values; and
- (c) would harmonise with local topography and ecological systems and other nature conservation values as far as possible.

[200] From the findings we have already stated, we do not accept that the development that the variation would authorise would, in respect of the northern end and the eastern edge, achieve the objective or Policy 1(a), corresponding to items (a) and (b) in the previous paragraph. To that extent we find that Variation 15 does not have a purpose of achieving the objectives and policies of the plan.

[201] So far we have focused on the particular objective and policies relied on by Mr Thorn. We now expand our focus to include all the objectives and policies of protecting natural resources, including the natural character of lakes, outstanding rural landscapes, and visual amenity values. In our judgement, development of the northern and eastern edges of the site, that would be visible from the surface of the lake and elsewhere, would not serve those policies either. Nor would development of the site, even where the development itself is higher density, achieve the



objectives and policies of promoting urban consolidation and compact urban forms. On the contrary, it would extend the town further.

[202] In short, we judge that the variation would not achieve the settled objectives and policies of the plan about protecting natural resources, nor the thrust of settled objectives and policies about promoting urban consolidation and compact urban form.

Summary of findings on criteria

[203] We have considered the variation by reference to each of the four criteria already identified.

[204] The variation would assist the Council in its function of controlling the effects of residential development of the site if it is to be developed for that purpose.

[205] However the variation is not necessary (in the sense of desirable or expedient) in achieving the purpose of the Act; it would not be the most appropriate means of controlling the actual and potential effects of the use, development and protection of land in order to achieve the Act's purpose; and it would not achieve the settled objectives and policies of the plan about protecting natural resources, nor the thrust of settled objectives and policies about promoting urban consolidation and compact urban form.

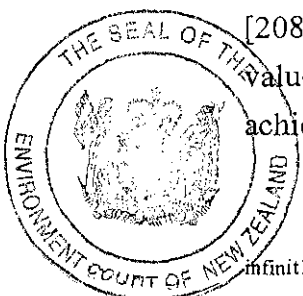
Specific provisions of Variation 15 in issue

[206] There were issues raised concerning several specific provisions of the variation on which we have to give our rulings.

Link Road

[207] A question was raised about the possibility of a road on the site being available for access to and from future development of land to the east of the site.

[208] Infinity Group recognised that provision for such a link road could have value. It did not itself propose it, but was willing to facilitate any option that achieved the objectives of all parties.



[209] Whether the district plan should be altered to provide for urban development of the land to the east of the site is not in issue in these proceedings. Nothing in this decision should be taken as endorsement of it. On that basis, we see no point in making provision for access to and from it through the site.

Public open space

[210] The next question concerned whether the Court has authority to reduce the public open space Area 4 of the proposed development by removing Area 4b as proposed at the hearing.

[211] Infinity Group responded that the variation had never provided that Area 4 would be public open space at all; but it volunteered to dedicate all of Area 4 except Area 4b as public open space.

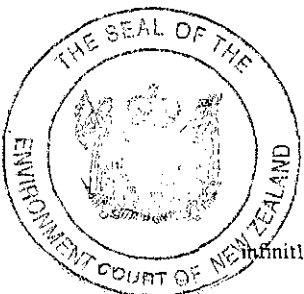
[212] We apprehend that this supposed issue arose from misunderstanding. We have found no evidence that raises an issue requiring the Court's ruling.

Residential flats

[213] Then there was a question about whether the effect of upholding the variation would be that there could be 400 residential units and also 400 additional residential flats on the site. Evidently this arose because of a general provision in the district plan which is understood to have effect that an owner of a residential unit is also entitled to have a residential flat on the same site.

[214] Infinity Group responded to the point by stating that if the Court had any concern over this, it would have no objection to an amendment providing that in the Peninsula Bay Zone, a residential unit does not include an entitlement to a residential flat on the same site.

[215] Because an issue had been made about the total number of dwellings provided for by the variation, we continue our consideration of the variation on the basis that if it is upheld, it would be amended accordingly.



[216] Development of such a large area would be likely to take place over a considerable period, and might be undertaken by more than one developer. We question the practicability of administering a limit on the total number of residential units in those circumstances.

Status of removal of kanuka

[217] There were also differences about the status of the activity of removing kanuka vegetation in certain areas of the site: whether it should be a discretionary activity, a non-complying activity, or a prohibited activity.

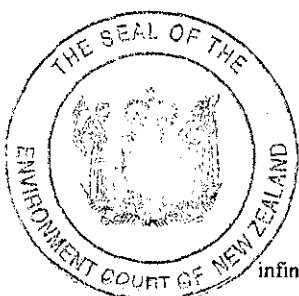
[218] The Council submitted that removal of kanuka outside nominated building platforms in Areas 2 and 5 should be a prohibited activity.

[219] The importance of protecting the kanuka is two-fold. First, it is valued for its inherent worth as native vegetation. Secondly, while it survives it could to some extent screen development in those areas from view from the lake surface and elsewhere.

[220] However retaining the kanuka would not necessarily be perceived by successive owners of lots in those areas as being in their own interests, particularly in commanding the widest views of the superlative lake and mountain-scape.

[221] The high value of retaining the kanuka could be shown by prohibiting its removal. However in our judgement, owners are more likely to moderate their desires to maximise views if there is provision for applying for consent, and conditions and criteria published for consideration of proposals.

[222] Accordingly we will continue to consider the variation on the basis that removal of kanuka from those areas would be a non-complying activity, with conditions and criteria designed to ensure that consent would only be granted if the removal would not reduce the extent that landscape and visual amenity values are maintained.



Building height limits

[223] Some differences of opinion about the basis for determining the maximum height of buildings led to Infinity Group and the Council preferring use of height limits above a datum, rather than above supposed ground levels, in Areas 2 and 5. The Council urged inserting an additional criterion for deciding earthworks, to encourage carrying them out in the period between May and October.

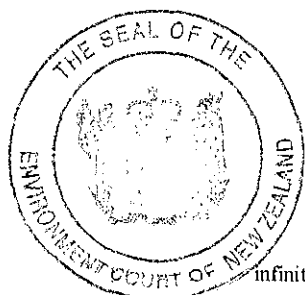
[224] We accept that this method might encourage additional excavation, but Infinity Group accepted that earthworks for residential buildings should then be part of the controlled activity consent process for buildings. The criterion encouraging earthworks between May and October was not opposed.

[225] We accept that setting maximum building heights by reference to datums provides certainty and enforceability, and is preferable to the general district plan mechanism which has difficulties in both respects. So we will continue to consider the variation on the basis that the building height limits in Areas 2 and 5 would be set by reference to appropriate datums; that earthworks for residential buildings should then be part of the controlled activity consent process for buildings; and that there be a criterion encouraging earthworks between May and October.

Building appearance

[226] Another issue of detail related to the extent to which the Council would have control over the external appearance of buildings in Areas 2 and 5a. Infinity Group proposed that this be done by stating that the external appearance of buildings, including design, cladding, colour and reflectivity, and consistency of design and appearance of garaging and outbuildings with the principal dwelling be matters in respect of which the Council would have control when considering, as controlled activities, the addition, alteration or construction of all buildings in those areas.

[227] In our judgement that appears to be appropriate, and we will continue to consider the variation on the basis that it is amended accordingly.



Future driveways and walkways

[228] There was also some reference to the routes of future driveways and walkways. Infinity Group accepted that they are shown conceptually on the plans, and the routes had not been fixed by survey or by reference to topography.

[229] We continue our consideration of the variation on that basis.

Exercise of power under section 293

[230] Infinity Group proposed that, if the Court held (as it has) that the maximum number of residential units is limited to 240, the Court should act under section 293 to raise the limit to 400 residential units. Consequential changes would involve increasing the extent of Area 3 and reducing the minimum lot area in Area 1 from 1,000 square metres to 700 square metres.

[231] Infinity Group argued that because the possibility of there being 400 residential units is already before the public from the Council decision on submissions, public notification of the proposed amendment should not be required. However the Council submitted that if the Court found that a reasonable case had been made for the amendment, it should direct public notification.

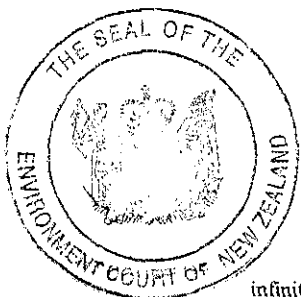
[232] Mr Thorn opposed this proposal, contending that the Council should be given an opportunity to reconsider its position, it having clearly signalled that it did not favour a 240-dwelling development, but preferred a higher density. He urged that this could only be done by cancelling the variation.

[233] In reply, counsel for Infinity Group submitted that the Council's preference for a higher density supports rather than counts against the proposition; and that there is no need to give it further opportunity for reconsideration.

[234] We quote the relevant parts of section 293:

293. Environment Court may order change to policy statements and plans— (1) On the hearing of any appeal against, or inquiry into, the provisions of any policy statement or plan, the Environment Court may direct that changes be made to the policy statement or plan.

(2) If on the hearing of any such appeal or inquiry, the Environment Court considers that a reasonable case has been presented for changing or revoking any provision of a policy statement or plan, and that some opportunity should be given to interested parties to consider the proposed



change or revocation, it may adjourn the hearing until such time as interested parties can be heard.

(3) As soon as reasonably practicable after adjourning a hearing under subsection (2), the Environment Court shall—

- (a) Indicate the general nature of the change or revocation proposed and specify the persons who may make submissions; and
- (b) Indicate the manner in which those who wish to make submissions should do so; and
- (c) Require the local authority concerned to give public notice of any change or revocation proposed and of the opportunities being given to make submissions and be heard.

...

[235] In considering those provisions, we apply the law explained by the High Court. The power is to be exercised cautiously and sparingly.⁵⁷ Before the Court has jurisdiction to invoke the section it must consider, first, that a reasonable case (strong enough to have a reasonable chance of success) has been presented and, secondly, that some opportunity should be given to interested parties to consider the proposed change. The requirement for further public notification and submissions is an integral component of the package. Even if the Court considers that a reasonable case has been presented, it will be exceedingly rare where the Court would exercise the power even within the scope of the reference, because interested parties will have had their opportunity to consider the proposed change.⁵⁸ There must be a nexus between the reference and the changed relief sought.⁵⁹

[236] We now consider whether the conditions in which the power may be exercised exist in this case; and if they do, we can then form our judgement whether in the circumstances it should be exercised.

Has a reasonable case been presented?

[237] The first condition of the Court's power is that on the hearing of the appeal, the Court considers that a reasonable case has been presented for the change in question, understanding a reasonable case as one strong enough to have a reasonable chance of success.

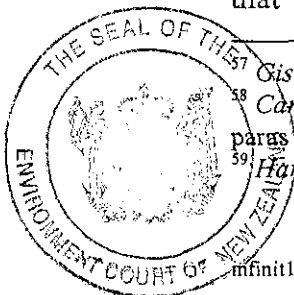
[238] Infinity Group and the Council maintained that there is a reasonable case for increasing the density of the zone from 240 to 400 residential units on the ground that the report of the Wanaka 2020 workshop supported development of Beacon

⁵⁷ *Gisborne Refrigerating Co v Gisborne District Council* (1990) 14 NZTPA 336 (Greig J).

⁵⁸ *Canterbury Regional Council v Apple Fields* [2003] NZRMA 508; 9 ELRNZ 311 (Chisholm J)

paras 41, 45, 47, 50.

⁵⁹ *Hamilton City Council v NZ Historic Places Trust* (HC, Hamilton; 11/08/04, Harrison J, para 25).



Point (which includes the site) should be more intensely developed to avoid continuing sprawl and scattered development.

[239] Mr Kyle stated that the findings of the Wanaka 2020 process are highly reflective of how the Wanaka community wishes to deal with the urban growth issues affecting the town. He also gave the opinion that the increase in the density is consistent with the objectives and policies on urban growth, with its primary focus on urban consolidation and avoidance of development where it would adversely affect landscape values or involve costly extensions to, or duplication of, urban infrastructure.

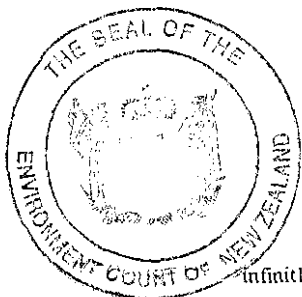
[240] Ms Van Hoppe observed that the changes would not affect the overall configuration of the Peninsula Bay Zone, but would make more efficient use of the land in Areas 1 and 3.

[241] Mr Whitney considered that the proposed development of the site can be regarded as urban sprawl rather than consolidation, and observed that it is some distance from existing schools, shopping and employment areas of Wanaka.

[242] It is not for us to make a final judgement in these proceedings on those issues. Our duty is to decide whether the case for the changes to the variation is strong enough to have a reasonable chance of success.

[243] In that respect we are not influenced by the outcome of the Wanaka 2020 workshop. That process was managed by facilitators and a technical support team who prepared the report, and we have no information about whether they had a particular agenda. It was not a process under the Resource Management Act that people with an interest in Variation 15 would necessarily take part in; nor would they expect that the recommendations might be relied on for making important changes to the variation. At best the report represented the views of the people who chose to take part in the workshop.

[244] We do not accept that simply because there could result 400 residential units instead of 240 on a 75-hectare site, that amounts to a case for the changes strong enough to have a reasonable chance of success



[245] On the difference between Mr Kyle and Mr Whitney on whether the increased density would appropriately serve the policies of consolidation and compact urban form, we find more plausible and prefer Mr Whitney's opinion that increasing the density of development on the site so far from the town centre represents sprawl rather than consolidation.

[246] In summary, we do not consider that a reasonable case, one strong enough to have a reasonable chance of success, has been presented for the changes in question. This condition of the Court's power under section 293 does not exist.

Should opportunity be given to interested parties to consider the amendment?

[247] The first condition of the Court's power under section 293 to direct the changes to the variation is that the Court considers that some opportunity should be given to interested parties to consider them.

[248] Contrary to what might seem to be its own interest, counsel for Infinity Group submitted that public notification is not necessarily required. However we have no doubt at all that, if a reasonable case had been presented for the changes in question, opportunity should be given to interested parties to consider them, and if they wish, make submissions and present evidence on them.

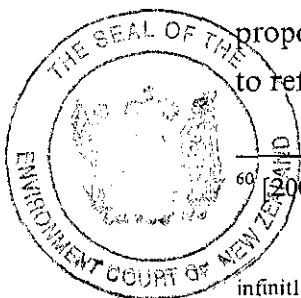
Should the power be exercised?

[249] If we had found that a reasonable case had been presented for the changes, we would then have to make a judgement whether in the circumstances the power should be exercised.

[250] Infinity Group proposed that the changes should be assessed by the factors identified in the *Apple Fields* case,⁶⁰ and contended that those criteria are fulfilled.

[251] Because we have found that the first condition of the Court's power has not been fulfilled, there is no need for us to make a point-by-point consideration of the proposed changes to Variation 15 be reference to those criteria. It is sufficient for us to refer to item (3), which we quote:

⁶⁰ [2003] NZRMA 508; 9 ELRNZ 311 paras 13, 55-62.



That the discretion must be exercised cautiously and sparingly for these reasons:

- (a) It deprives potential parties of interested persons of their right to be heard by the local authority;
- (b) The Court has to discourage careless submissions and references;
- (c) The Court has to be careful not to step into the arena – the risk of appearing partisan is the great disadvantage of inquisitorial methods.

[252] On item (a), in this case exercise of the power would continue to deprive people of the opportunity to be heard by their elected local authority on the changes.

[253] On item (b), the cause of the proposal in this case is not careless submissions or references, but the Council's unsound assumption of authority to make the changes. The Court should, and does, discourage, rather than encourage, that.

[254] On item (c), although in this case the changes are proposed by a party, not on the Court's own initiative, the Court should still be careful not to step into the arena, as it might have to make a final judgement, later, on a dispute over the appropriate density of future development of the site.

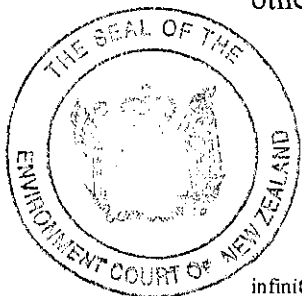
[255] For those reasons, even if both conditions of the Court's power to act under section 293 were fulfilled, we would not exercise the power.

Part II of the Act

[256] In coming to a judgement on the variation overall, we have duties under Part II of the Act, which states its purpose and principles. Part II contains sections 5 to 8. Section 5 states the purpose and explains what is meant by sustainable management. As the remaining sections are supportive of and more particular than section 5, we consider them first.

[257] Section 6 imposes a duty on functionaries to recognise and provide for a number of matters of national importance. Some of them are raised by this case and we will address them.

[258] Section 7 imposes a duty on functionaries to have particular regard to certain other matters. Some of them were relied on in this case, so we address them too.



[259] The parties were agreed, and we accept, that the variation does not raise any issue in respect of the duty imposed by section 8 to take into account the principles of the Treaty of Waitangi.

Matters of national importance

[260] We quote section 6:

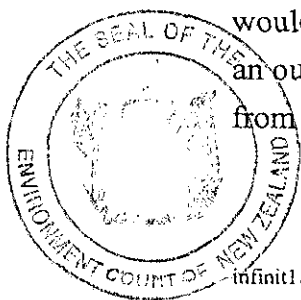
In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

[261] Mr Kyle gave the opinion that the variation would preserve the natural character of Lake Wanaka and its margins, would protect significant areas of kanuka, would enhance public access to the margin of the lake, and would not impact on Maori ancestral lands, water, sites, lakes or rivers.

[262] Ms Van Hoppe gave the opinion that the northern area of the proposed zone would not impact on the natural character of Lake Wanaka's margin; and that any potential effect of visibility of development could be mitigated or avoided by the proposed zone provisions. This witness stated her belief that the proposed public walkways and open space would enhance public access to and along the lake, and that the development would have no more than minor effects on the existing walkway.

[263] Mr Whitney gave the opinion that subdivision and development of the northern end and elevated eastern edge of the site would be inappropriate because it would be visible from the margin of the lake, and from the surface of the lake (itself an outstanding natural landscape) to the north, and from the north-east, and generally from west. This witness also stated that residential development at the northern end



of the site would be likely to present a private atmosphere that would not enhance public access at the lakeshore.

[264] Earlier in this decision we stated our findings that the variation would provide for development in Area 5 that would have significant adverse effects on landscape and visual amenity of Lake Wanaka and its shores. Based on those findings, we hold that the variation would not recognise and provide for the preservation of the natural character of the lake and its margin. In our judgement, development of parts of the site that would be visible from the surface or the margin of the lake, even if existing kanuka or other vegetation did not exist, would not be appropriate; and the variation would not sufficiently protect the natural character from it, nor protect the outstanding natural feature and landscape of the lake from it. It would not fulfil the Council's duty under section 6(a) and (b).

[265] The variation contains measures designed to protect some of the areas of significant indigenous kanuka vegetation on the site, though not all of them. To the extent that it does not, the variation would not fulfil the Council's duty under section 6(c).

[266] The variation recognises and contains some provisions for maintenance and enhancement of public access to and along the lake. Although the presence of private development might mean that some people's enjoyment of that access is less, in our judgement that does not deserve categorising as a failure on a matter of national importance.

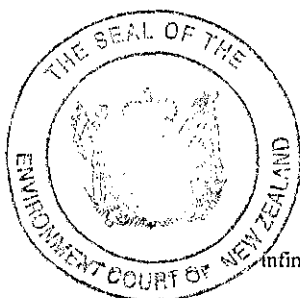
Matters for particular regard

[267] We quote the relevant parts of section 7:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

...

- (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (d) Intrinsic values of ecosystems:
- (e) [Repealed.]
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:
- (h) ...



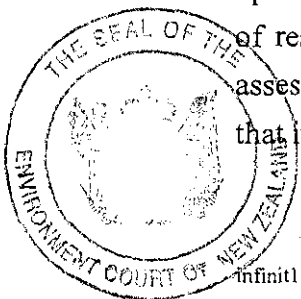
[268] Mr Kyle gave the opinion that the variation would achieve the relevant matters set out in section 7. He stated that the development would make efficient use of existing service infrastructure and roading (paragraph (b)); that amenity values would be maintained (paragraph (c)); that ecosystem values at the site would be preserved and enhanced (paragraph (d)); the development would enhance the quality of the environment by provision of reserve areas and formalised access to the margin of the lake, and by facilities to be located on reserve areas, and would not exhaust future resources.

[269] Mr Whitney gave the opinion that development of the part of the site that overlooks the lake would not be consistent with the ethic of stewardship (paragraph (aa)), exemplified by the Lake Wanaka Preservation Act 1973 and subsequent community protection of the lake. He questioned whether the development authorised by the variation could be found to be an efficient use of resources (paragraph (b)) without a thorough investigation of alternative sites and directions for growth.

[270] On the maintenance and enhancement of amenity values (paragraph (c)) and of the quality of the environment (paragraph (f)), Mr Whitney gave the opinion that the amenity values of the site are enjoyed by those who view the land as a backdrop to the town, including from the surface and margins of the lake. He considered that the need for the land to be used to accommodate urban growth should be demonstrated before those amenity values, and that quality, is sacrificed. Similarly the witness observed that the finite characteristic of the land resource should be considered before a decision is made to allocate it for residential subdivision and development.

[271] Although the variation would allow development that may be visible from the lake, it contains provisions designed to minimise the effect on the natural character of the lake and its visual amenities. In those circumstances we judge it disproportionate to find that the Council failed to have particular regard to the ethic of stewardship in that respect.

[272] On paragraphs (b) and (g), the Council does not appear to have examined options for growth of Wanaka adequately. Nor did it explain the limit on the number of residential units, be it 240 or 400. We would have expected a comprehensive assessment of the development capability of a site of this size. However we consider that it would be disproportionate to find that the Council had failed to have particular



regard to the efficient use of land and of existing service infrastructure, or of the finite characteristics of the land resource, in that regard.

[273] On paragraphs (c) and (f), the variation does contain provisions designed to maintain and enhance amenity values and the quality of the environment. We do not find that the Council failed to have particular regard to those important matters.

[274] In summary, we do not find that the Council failed in its duty to have particular regard to the applicable matters listed in section 7.

The purpose of the Act

[275] The purpose of the Act is stated in section 5, which we quote:

5 Purpose—(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

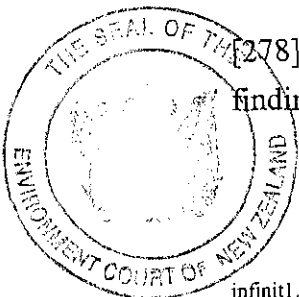
(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

[276] The Act has a single purpose, and it is our duty to consider the aspects of the variation that might serve it, and those that would not, in coming to a judgement whether it should be upheld or cancelled.

[277] The main resources concerned are the land of the site, the lake and its margins, the landscape and visual amenity values, and the significant native kanuka vegetation. The physical resources, particularly roads and other service infrastructure, are in this case less important.

Judgement

[278] Earlier in this decision, we reviewed the evidence and gave our reasons for finding that Variation 15 :



- (a) Is not necessary to achieve the purpose of the Act;
- (b) Has not been shown to be the most appropriate means of exercising the Council's functions to achieve the Act's purpose;
- (c) Would not achieve the settled objectives and policies of the partly operative district plan about protecting natural resources; and
- (d) Would not sufficiently protect the natural character of the lake (an outstanding natural feature and landscape) from inappropriate development.

[279] On those bases, it is our judgement that the variation would not serve the purpose of the Act of promoting sustainable management (as described) of natural and physical resources.

Determinations

[280] For those reasons, the Court determines:


- (a) That Appeal RMA352/03 is allowed:
- (b) That Variation 15 is cancelled:
- (c) That Appeal RMA337/03 is consequentially disallowed.

Costs

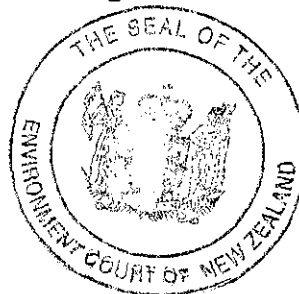
[281] The question of costs is reserved. Any application for costs may be lodged and served within 15 working days of the date of this decision. Any response may be lodged and served within 15 days of receipt of the application.

DATED at *Auckland* this *26th* day of *January* 2005.

For the Court:


D F G Sheppard
Alternate Environment Judge

Issued: **28 JAN 2005**



Appendix 5. Memorandum from Senior Parks and Reserves Planner, Jeannie Galavazi, QLDC

Memo



To:	Vicki Jones, Vision Planning
From:	Jeannie Galavazi (Senior Parks and Reserves Planner, QLDC)
Date:	Thursday, 14 July 2016
Subject:	Plan Change 51, Peninsula Bay – Open Space

This memo provides feedback from an open space perspective on the Peninsula Bay North Zone Private Plan Change application (Plan Change 51). It does not address ecological or landscape matters. The applicant wishes to develop a portion of the land currently zoned Open Space under the District Plan, into low density residential activity.

The Open Space Zone was created in 2004 when the applicant sought to rezone land at Peninsula Bay to allow for residential development. The subdivision consent at the time required this Open Space Zone to be vested in Queenstown Lakes District Council (QLDC) as recreation reserve once the final stages of subdivision were complete.

Executive summary

It is the view of the QLDC Parks and Reserves Department that should this plan change proceed there will be negative long term impacts on the open space and recreation values. It would set a concerning precedent for vesting of reserve land for future staged subdivisions with open space zones.

The open space zone as it currently exists affords quality informal recreation opportunities and has future potential for improved track networks. Should no development occur in the short to medium term, these opportunities are still accessible, and will be protected once the reserve is vested with QLDC.

The Parks Strategy 2002 is currently under review. The updated version when adopted in late 2016 will provide direction on how this area should be managed in context of the wider open space network and how to respond to the changing needs of the Wanaka Community.

Approving this plan change would irreversibly reduce the open space opportunities that should be protected for future generations.

The areas of most concern are the proposed Lots 4 -6, Lot 12 and Lots 20 – 26 due to their impact on views from the trails, reduction in land that will impact on potential trail alignments and how the presence of houses in this area would detract from the open space values currently experienced.

Open Space and Recreation

The revised Open Space Zone as proposed by Plan Change 51 reduces the amount of land to be vested by 6.11 hectares from approximately 13.8 hectares to 7.5 hectares.

The current Open Space Zone has a high degree of naturalness and provides opportunities for single trail mountain biking tracks, informal walking tracks and several potential picnicking sites with panoramic views. This is consistent with the objectives and policies in the Open

Space Zone, Landscape Protection chapter of the Operative District Plan. The size of the area, the relatively mature native vegetation, visual separation from the built environment and spectacular iconic views provides users with a sense of remoteness and opportunities to appreciate nature.

The proposed reduction in open space would detract from this experience and the available informal recreation opportunities. Access to the reserve would be via narrow pathways between housing lots on a compacted gravel walking path. This and the presence of houses within the reduced open space zone will change the experience to more a formal one and will detract from the sense of remoteness and natural character. Some of the best viewing areas will be lost to houses.

Proposed Lots 4-6 and 20-22 are located within the larger open spaces that are relatively flat. Lots 4-6 in particular have great views of the lake and mountains out to the north. These areas would be suitable for picnicking sites and are a place for walkers and bikers to pause and enjoy the views. It is feasible that these areas could also be used in future for small scale events.

The Open Space Zone differs to the other reserves already vested within the Peninsula Bay North development which are along a relatively steep bank adjoining Sticky Forest or a linear grassed reserve that was primarily created for stormwater drainage purposes. While they are useful for connectivity these reserves do not provide suitable flat picnicking areas, or any separation or respite from the built environment.

The revised open space zone as proposed by the applicant creates a narrow ridge of undulating land that is steep in places that drops away sharply to the lake to the north. There is reduced potential for creating separate walking and mountain biking trails, whether these are new or formalisation of the existing informal trails. One of the most suitable picnic site/viewing areas is where the northern most lots are proposed (Lots 4-6). These have good views out to the north, wouldn't require any clearance of vegetation and have a sunny northerly aspect. This area is also easily accessible to a wide range of users including elderly or parents with small children.

Many submissions raise the popularity of the area for mountain biking, running and walking. QLDC has not undertaken any track counting in this area for over a decade, so we cannot confirm the actual numbers. Historic records would suggest that trails in this area receive over 20,000 visits per annum, although this is anecdotal.

It is anticipated that this reserve will become increasingly popular, given the close proximity to Wanaka township and the population growth in the immediate neighbourhood and in the wider Wanaka area. The adjacent Sticky Forest (also known as The Plantation) is a popular mountain biking area and the Open Space Zone has the potential to enhance these trails. However it should be noted that Sticky Forest is in private ownership and there is currently no formal agreement in place around the network of mountain bike trails. Should this area no longer be publically accessible (either partially or completely) the Open Space Zone would likely see increased use. In my view this increases the value of a relatively large undeveloped reserve that is held in public protection.

Parks Strategy 2002

It is envisaged that the Open Space Zone once vested would be managed as an Open Space/Passive Reserve, as defined in the Parks Strategy 2002. The characteristics of this reserve type is that it contains a natural feature/s such as lake edge, river or mountain view and is usually a large reserve that provides for informal recreation and may only be partly developed.

It should be noted that the Parks Strategy is currently under review - the updated version will be adopted late 2016. The new strategy will place more emphasis on the quality, accessibility and function, rather than the more quantitative approach of the 2002 version – (ie it focuses on the amount of open space available). Analysis of the wider open space network, the changing needs and wants of the population and ecological enhancement opportunities are also being addressed in the review.

In the absence of the new Parks Strategy being adopted I am uncomfortable making an irreversible decision on a large area of open space adjacent to an area experiencing population growth and in close proximity to the Wanaka Township without a relevant strategy in place. Best practice for developing the reserve, should this become a priority, would be that once the strategy was in place we could then prepare a concept plan and/or a reserve management plan in consultation with the community for the reserve.

Open Space Zone Landscape Protection District Plan Chapter

The purpose of the Open Space Zone is to protect landscape values, natural character and informal open space of the area. It is intended to keep such areas in a natural state and free of buildings and structures. Such areas may however, be utilised for types of passive recreation that do not require intrusive buildings or structures, such as walking, running and biking.

Objective 1:

1. *To protect and maintain natural ecological values and the open appearance of the Open Space Zone.*

Policies:

- 1.1 *By restricting the development of buildings and structures and ensuring that those that are built do not detract from the open character of the zone.*
- 1.2 *By protecting, and where appropriate enhancing, ecological values and indigenous vegetation*
- 1.3 *By protecting the open appearance of the zone.*
- 1.4 *By limiting the types of activities that can take place within the Open Space Zone.*
- 1.5 *By ensuring effective maintenance, including pest control, is undertaken within the Open Space Zone.*

The proposed plan change, and in particular Lots 4-6 and 20-26 will detract from the open space character of the zone. Currently there is no view of buildings from the majority of the existing track network. Screening is proposed but this will take a long time to fully establish and then there is no surety that this will completely obscure development.

The proposed plan change will reduce the open space to a narrow ridge and the presence of houses in this location will detract from the amenity and values currently experienced. There is potential for ecological enhancement, while the applicant proposes revegetation existing vegetation will be removed and narrow corridors will be created. Some of the new tracks will require additional vegetation clearance. Screening is proposed but there is no certainty that this will establish well and screen entire development, particularly in the short term.

Objective 2:

2. *To enable public use of the Open Space Zone for passive or informal recreational activities.*

Policies:

- 2.1 *By ensuring public access is available to land within the zone.*
- 2.2 *By providing for the creation of a limited number of passive recreation facilities, e.g. walking and cycling trails, picnic and barbeque areas.*

- 2.3 *By limiting recreation activities to informal or passive type activities.*
Implementation Methods
(i) District Plan
(a) Rules
(ii) Other methods
(a) Public access easements
(b) Covenants
(c) Deeds of agreement

The types of informal and passive recreation activities currently undertaken and envisaged to continue in this area are consistent with the objectives and policies.

Economic Impacts

The applicants Assessment of Environmental Effects (AEE) states that there will be positive economic benefits resulting from the reduction in Open Space as *there will be an estimated maintenance cost savings of \$7,500 per year*. This amount is unsubstantiated. Given the existing short tussock and kanuka ground cover, it is anticipated that maintenance costs for informal open space such as this would not exceed \$1,500 per year for weed clearance. This amount is determined through QLDC's Levels of Service programme – the entire 13.6ha would likely be classified as 'M6' – which is weed and fire suppression with no or minimal mowing requirements. It is unlikely mowing would be undertaken in this area. \$1500 would be for noxious weed clearance. Removal of noxious weeds by Infinity should be carried out prior to vesting.

It is foreseeable that future budget provision could be made for ecological enhancement, and trail maintenance.

Examples of areas that QLDC manage that have retained an informal track network are Jardine Park on Kelvin Heights Peninsula, Queenstown Hill and Ben Lomond. In these areas QLDC facilitates trails and upgrades primarily through a partnership with the Queenstown Mountain Biking Club and ecological enhancement through partnerships with volunteer conservation groups.

Memorial Seat

The applicant states that the location of a memorial seat to the co-founder of Infinity Investment Group will be of an additional benefit to the reserve and the community.

The appropriateness of having a memorial of this nature in this location would need to be decided by the relevant Council Committee. An application would be required in accordance with the QLDC Plaques, Memorials and Monuments Policy (included as Attachment A).

Under this policy the applicant must meet all costs associated with design, manufacture and installation of the plaque, memorial or monument. Subjects for plaques and memorials will be limited to the following:

- *An individual or association that has contributed significantly to the District*
- *An individual or association strongly linked to the District and its history.*

The location should also be carefully assessed – should the plan change proceed the area that is currently proposed remains the only viewing point where panoramic views are afforded. It is also at a junction of the walking and mountain biking track, and is susceptible to erosion.

Track Construction

OPUS International Consultants Ltd have undertaken an assessment of the proposed tracks and trails on behalf of Parks and Reserves. This assessment is included as Attachment B to this memo.

Mountain Bike Trails

It is not clear from the AEE whether any amendments are proposed to the existing single-track mountain bike trails that link into the Sticky Forest trail network. Single track mountain bike trail design and construction is covered the IMBA Guide to Building Single-Track.

The blue dashed line depicted on the Landscape Plan as single track mountain bike trail appears to be a section of the "Sticky Forest" Mountain Bike Park, the particular route known as "Thread the Needle". It is not clear if any amendments are to be made to this trail. If any changes are to be made to this existing alignment they must be carried out with consultation with the Aspiring Tracks Network, of which QLDC is a partner.

Walking Trails

A new walking trail is proposed by the applicant and this is depicted on the Landscape Plan as a solid blue line. It is proposed that this will be a 1m wide, compressed gravel track. No other technical information is available.

As this trail will be providing access to a varied group of users from families to cyclists it is appropriate that the trail be designed to a minimum of Grade 2, under the QLDC Cycle Trail and Track Design Standards and Specifications (Refer Attachment C). This allows for a minimum trail width of 2.0m but generally 2.5m in width. The wider trail width enables dual use and provides opportunities for passing and riding side by side, whereas a 1.0m wide trail provides little to no such opportunities, particularly if prams or bikes are being used. I note the Aspiring Track Network submits that the walking trails are 1.5m wide.

The construction of any new trails in this area should address impacts on the ecology and landscape, as the construction of a Grade 2 trail will require a vegetation clearance corridor of 3m to 5m. It is not clear if this has been taken into consideration in the applicants Ecology Report. The reduced open space zone would require more switch backs and greater vegetation clearance corridors than the original 13.8 hectares, as the remaining terrain is of a steeper topography.

Tracks and trails in this area would likely continue to be developed and enhanced regardless of whether or not this plan change would proceed, as many of the tracks are constructed by volunteers funded by grants and local fundraising. The tracks as they exist at the moment appear to be meeting the needs of the community as anecdotal evidence and the submissions to this plan change suggest they are well used for walking, biking and running. The submissions highlight that users appreciate the informal trail networks, connection with nature and the spectacular views. Because of this we do not see any immediate need to upgrade the trails. Should time and population growth dictate the need to upgrade these (eg provide a shared use trail) this would be likely done through the preparation of a concept plan or a reserve management plan that would be prepared in consultation with the community and then funding would be sought through submissions to the annual plan.

The full 13.8 ha provides more scope for the creation of separate shared use trails (of Grade 1 or 2) and specific mountain bike trails, or a potential one way loop trail - if and when Council and the community decides that this would be required.

Should the plan change proceed, the trail design leading to the proposed memorial site needs to address how conflict between the mountain bike trail and walking track will be minimised or avoided.

Response to submitters

(Queenstown Lakes District Council)

“Reject Plan Change 51 unless the Plan change satisfactorily a) addresses the impact on the future treatment of staged subdivisions and vesting of assets and b) ensures the open space provided remains commensurate with the scale of the Peninsula Bay subdivision.”

It is our view that the Open Space Zone as originally approved in 2005 as part of Variation 15 and the subdivision conditions should be upheld and vested as recreation reserve in its entirety. Approving this plan change will create uncertainty for QLDC and the community for future open space zones and the precedent that this would set for other staged subdivisions.

The Open Space Zone subject to this plan change forms part of the wider open space network in Wanaka and provides linkages into a popular mountain biking area. Forecast population growth in Wanaka will place pressures on existing public open space so there is a need to consider expanding and supplementing these opportunities as the population grows and the urban area intensifies.

“Reject Plan Change 51 unless the Plan change satisfactorily resolves concerns regarding a) whether the northern-most lots are located such that the remaining open space is able to provide viable and practical trails (the panel may wish to have future trails shown a Structure Plan or using covenants to restrict no complaints from the residents in relation to the use of such trails); and b) formal acknowledgement from the requestor that improvements will be provided over and above any development contributions payable” (Queenstown Lakes District Council)

It is difficult to make an accurate assessment of how the northern most proposed lots impact the existing trail network without these tracks also being shown on the plan. The trails that are shown on the plan pass close by most of the lots, in particular Lots 4 - 6. This will potentially impact on privacy both for the residents and the trail users.

One of the most suitable picnic site/viewing areas is where Lots 4 – 6 are proposed, as these have good views out to the north, wouldn't require any clearance of vegetation and have a sunny northerly aspect. This would be a more appropriate site for a seat and/or a memorial, and trails could be designed to avoid a walking trail and mountain biking trail intersecting.

The narrow walkways between the proposed lots and the presence of what is assumed will be large houses will detract from the sense of open space and natural character that is currently experienced here.

Recommendation:

Uphold the original open space zone to provide maximum potential for informal recreation opportunities to meet the needs of the community. If the plan change does proceed any improvements should be provided over and above required development contributions.

Forest and Bird

“Complete the original carparks and walking track access as per the original 2004/5 subdivisions.”

We support the revised locations suggested in the Aspiring Tracks Network submission should the plan change be proceed.

Recommendation:

Should the plan change not proceed the eastern carpark (located near the junction of Infinity Drive and Minaret Ridge) should be in the revised location as recommended by the Aspiring Tracks Network submission.

Aspiring Tracks Network

“Should the Plan Change proceed, in order to be successful points 1 - 10 of the submission should be incorporated into the proposed plan/ decision, Points 1 - 10 relate to ensuring that any changes to the recreational area and track network improve recreational opportunities; the development is of a high standard; and that track maintenance is provided for.

Specifically, ATN seeks:

- 1) the relocation of the carpark (see map);*
- 2) - 3) construction of a new grade 2 'easy option' bike/ walking track (see map);*
- 4) construction of a carpark at the end of Bull Ridge (see map);*
- 5) track design at the lookout to specifically minimise/ avoid conflict;*
- 6) construction of a toilet at the northern-most carpark;*
- 7) tracks to be developed by professionals and in partnership with community groups;*
- 8) a footpath be developed on the north-north eastern side of Infinity Drive;*
- 9) the new walking track (see map) to be 1.5 m wide; and*
- 10) Construction of a suitable grade walking track linking Peninsula Bay to the lakefront (see map). Note: 1 - 5 above have apparently been agreed with the applicant/ requestor.”*

The Aspiring Tracks Network is made up of five community stakeholders, of which one is QLDC, represented by the Parks and Reserves Department. We therefore support the submission, noting the following:

- That the QLDC cycle trails and track specifications require a Grade 2 trail to be 2m to 2.5m wide. Ecological and landscape impacts of constructing trails to this grade will need to be addressed.
- Provision of a toilet would incur future maintenance costs on QLDC. While it may be desirable at some point in the future to locate a toilet in the Peninsula Bay vicinity (particularly once the future of Sticky Forest was clear), Parks and Reserves' preference would be that the location of this and the type of toilet was decided through the preparation of a concept plan and/or a reserve management plan in consultation with the community.

Other

All tracks and trails should be constructed in accordance with the QLDC Cycle Trail and Track Design Standards and Specifications 2016 or the IMBA Guide to Building Single-Track.

ATTACHMENTS

- A:** QLDC Memorials Plaques and Monuments Policy
- B:** Peninsula Bay North - Plan Change 51 Off Road Tracks and Trail Technical Advice (OPUS International Consultants Ltd)
- C:** QLDC Cycle Trail and Track Design Standards and Specifications 2016

Plaques, Memorials and Monuments Policy

Adopted – Community Services Committee 14 September 2010

Review date – September 2015

INTRODUCTION

This policy sets a process for the Queenstown Lakes District Council, hereafter referred to as 'the Council' and the community to follow when new plaques, memorials and monuments are proposed. It will prevent ad hoc, prolific, inappropriate or widely varying placement of plaques, memorials and monuments at public sites in the Queenstown Lakes District, hereafter referred to as 'the District'.

This policy covers all plaques and memorials proposed or being placed on land, buildings or property which the Council owns or over which it has control. All such plaques and memorials will be required to conform to this policy.

This policy replaces any previous policy, guidelines or approval process in regard to the installation of any form of plaque or memorial in the District. Any existing plaque or memorial cannot be taken as a precedent for future approvals.

This policy does not cover signage, interpretative panels, display boards, banners or public artworks.

1. POLICY DEFINITIONS

For the purpose of this policy and procedures, the following definitions will apply:

- 1.1 **Plaque:** A flat tablet of metal, stone or other appropriate material which includes text and/or images which commemorate a person or an event and/or provides historical text of information relevant to its location. To be affixed to an object, building or pavement.
- 1.2 **Memorial:** An object established in memory of a person or event.
- 1.3 **Monument:** A structure created in memory of a person or event or which has become important to a social group as a part of their remembrance of past events.
- 1.4 **Object:** An object is small in scale when compared to a structure or building. It is generally moveable. Examples include; memorial gates, sculptures and fountains.
- 1.5 **Structure:** A structure is a functional construction intended to be used for purposes other than sheltering human activity. Examples include; memorial gates, bridges and gazebos.

2. GUIDELINES

- 2.1 No new memorial or plaque will be considered that commemorates a person, event or occasion already memorialised unless there are exceptional circumstances.
- 2.2 Any proposal for a plaque that incorporates sculptural reliefs or for a memorial or monument that is three dimensional or sculptural or is an artistic work, will be referred to the Aspiring Art & Culture Trust with its recommendations then put to the appropriate delegated authority for approval.
- 2.3 The Council has specified a range of categories for plaques and memorials appropriate to the needs of individuals and organisations (see section 7 categories). No proposals will be considered outside of these categories. Applications can only be made under one category.
- 2.4 Subjects for plaques and memorials (Categories 1, 2 and 3) will be limited to the following:
 - An individual or association that has contributed significantly to the District
 - An individual or association strongly linked to the District and its history.
- 2.5 Subjects for Category 4, personalised memorial plaques on a seat, bench or picnic table will be considered by the Council on a case by case basis. Approval is dependent on the suitability of the site for the item of furniture and whether there is a genuine need for it as determined by the Parks Manager. If an application for a personal memorial is declined, the Council's decision is final. Subjects will be limited to:
 - Individuals who have lived in or have a special association with the District.
- 2.6 All materials used for plaques, memorials and monuments should have a minimum service life of 50 years as detailed in Section 2, NZS 4242:1995.
- 2.7 Any plaque, memorial or monument approved by and placed in the district should be deemed to be owned and under the unconditional control and management of the Council.
- 2.8 The Plaques, Memorials and Monuments Policy is relevant to the future management of the Queenstown Gardens and is referred to in the Queenstown Gardens Management Plan.

3. CATEGORIES

3.1 Category 1 Commemorative Trees with Plaques

This category is reserved for commemoration of dignitaries, civic and historic occasions. Commemorative trees, native or exotic must be consistent with Council's District Tree Policy to be planted in any of the District parks or gardens and placed in a grassed location. Once planted, commemorative trees become a Council asset and are maintained to the Council

standards. As with all Council managed trees, plantings need to be appropriate to the site and area, and maintenance must be according to best arboricultural practice. If due to unforeseen circumstances a tree must be removed, it may not be replaced.

- For commemorative trees the metal plaque to be set at base of tree on a concrete plinth.

Design Specification

- Brass or bronze plaque on concrete or stone plinth.
- Maximum size 300mm x 200mm (w x h)

3.2 Category 2 Metal Plaques

To signify or commemorate an historic or civic occasion or to provide minor interpretative material relevant to a nearby building, artwork or historic feature or site. Such plaques will not be permitted as private memorials for individuals or families.

- Plaques for artwork will be referred to the Aspiring Art & Culture Trust as a component of the artwork with their recommendations then referred to the appropriate delegated authority for consideration. Plaques for artwork are used to list artist, title, date of installation of artwork and interpretative information and are installed for every new Council commissioned artwork in a public place. The plaque shape and material should be in keeping with the artwork.
- Any new applications for plaques with historical significance received by the Council will be referred to the Queenstown Historical Society or NZHPT for verification.

Design Specification (excluding plaques for artwork)

- Maximum size 300mm x 200mm (w x h)
- Plaque to be brass, bronze or stainless steel to ensure durability
- Small oval brass plaques have been used in Queenstown to identify sites/features of historic interest. Where appropriate this style of plaque will continue to be used however historic plaques will not be limited to this design.

3.3 Category 3 Ornamental Feature, Fountain, or Sculptural Memorials

Council is open to discussion of unique and substantial memorials. A written proposal should be made to the appropriate delegated authority outlining the desired outcome and budget available. These applications will be considered on a case by case basis

3.4 Category 4 Personalised Memorial Plaques on Seats, Benches or Picnic Tables

This memorial is a small commemorative metal plaque for groups or individuals, to be attached to a park seat or bench. The location of the seat or bench is at the discretion of the Parks Manager (refer to section 2.5). Once installed, memorial furniture becomes a Council asset which will be maintained to Council standards for a period of at least five years. After this time removal of the asset is at Council's discretion. If due to unforeseen circumstances a seat or bench must be removed, it might not be replaced.

Design Specification

- Small rectangular brass plaque – maximum size 80 mm x 150 mm (h x w)
- Installation to be on the back rest of the seat or bench

4. LOCATIONS

Applicants should nominate a preferred site (general location) for the placement of the plaque, memorial or monument. Only sites that have relevance to the person, group or event being commemorated should be nominated.

It should be noted that:

- ***Queenstown Gardens and Monument Hill, Arrowtown already contain a high volume of plaques and memorials and are considered to have reached their full capacity for such items. No new plaques, memorials or monuments will be accepted in these areas unless by special Council dispensation. This excludes applications for memorial plaques on seats on the gardens circumference trail.***
- ***Cemeteries are not included in this policy***

Approval for a particular site will only be granted if consistent with the Council's development plan or reserve management plan for that site, and the proposed plaque, memorial or monument being relevant to the site. Consideration of existing numbers of plaques and memorials, artworks, fountains and other objects in the vicinity of the proposed new plaque or memorial will be taken into account with each application. The appropriate delegated authority has final approval of appropriate site/s and will determine the exact location of any plaque or memorial.

The plaque or memorial shall be located at the designated site until such time that it cannot be maintained due to natural degradation with the following exceptions:

- The area in which the item is sited is to be redeveloped
- The use of the area in which the item is sited changes significantly in character and the item is not deemed suitable for the site
- The structure or support on which the item is located is to be removed or permanently altered.

5. WORDING

- Text should be brief and in language easily understood by the public. It should avoid the use of jargon or acronyms.
- Text should be written following research from a wide range of authoritative sources and where relevant be verified by the New Zealand Historic Places Trust (NZHPT).
- A final proof of the plaque/memorial wording must be approved by the applicant prior to production.
- If a graphic image is utilised the amount of text will be reduced.
- Any sponsorship recognition will be through use of approved wording or logo, which will take up no more than 10% of the overall plaque design.

6. REPLACEMENTS

Requests will be considered to replace existing plaques or memorials which have been damaged or otherwise degraded or require alterations, however replacements will need to conform to current design specifications and guidelines. Replacement costs will be the responsibility of the applicant unless the appropriate delegated authority decides it is appropriate for Council to fund the replacement. (Historical plaques or memorials which are part of the Council's collection will be appropriately maintained by the Council).

All metal plaques are at risk of theft due to their scrap value and must be securely attached to solid objects such as buildings, rocks or pavement.

7. APPLICATIONS

- Applications will be made in writing in the first instance to Parks Officer, Queenstown Lakes District Council, 10 Gorge Road, Private Bag 50072, Queenstown.
- Applications should include all relevant details including proposed category of plaque or memorial, proposed site or location, proposed text or images to be included and any other pertinent information.
- Applications for Category 3 to be handled directly by the Council within its Community Services Department . Applications for Category 1, 2 and 4 will be presented to the Community Services Committee for decision. Please refer to section 2.2 for special conditions relating to sculptural, three dimensional or artistic memorials or monuments.
- Decision will be confirmed in writing to the applicant.
- The applicant must meet all costs associated with design, manufacture and installation of the plaque, memorial or monument. In some instances a contribution toward maintenance may also be a condition of approval.
- Payment for approved plaques and memorials will need to be made in full prior to ordering.
- The Council will manage the design, manufacture and installation of the plaque/memorial as specified.
- No application will be considered outside this process.

8. IMPLEMENTATION

- Written application with appropriate information received
- If necessary the application will be referred to the appropriate delegated authority
- Application approved/declined and applicant notified accordingly
- If successful, applicant to pay full cost before the application is processed further.
- On receipt of payment the Council will order artwork design for plaques to ensure uniformity.
- On receipt of full payment the Council will order associated tree or bench or organise installation of plaque/memorial/monument.

9. REVIEW

This policy will be reviewed five years after its adoption.

24 May 2016

Jeannie Galavazi
Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN

6-XQ051.00

Dear Jeannie

**PENINSULA BAY WANAKA - PLAN CHANGE 51
OFF ROAD TRACKS AND TRAIL TECHNICAL ADVICE**

Purpose

This brief report provides general feedback on the engineering technical aspects of the trails and tracks, in relation to their compliance with the QLDC Cycle Trail and Track Design Standards and Specifications, put forward in the “Peninsula Bay Joint Venture-Private Plan Change Application – including Assessment of Environment Effects (AEE) and Appendix C”.

Any areas outside the scope of this letter, i.e. planning, ecology, should be commented on by a person specialising in those areas.

Document Review

When reviewing the AEE document one section was identified which makes reference to walking and cycling, section 6.1.3 – Infrastructural Effects, with the following comment:

Roading, Footpaths and Walkways

The new LDR area is proposed to be accessed from the existing roading network established as part of the wider Peninsula Bay development. Specifically, proposed Lots 1 to 12 will be accessed via an extension to Bull Ridge, with Lots 13 to 26 accessed via an extension to Infinity Drive. Pedestrian and cycle linkages are proposed throughout the site and comprise of two main types; those associated with the roading network and those connecting with existing walking and cycling trails in the Open Space zone.

It is appropriate for the final roading and footpath specifications and design to be undertaken in association with later subdivision and development of the site.

Image 1 – AEE reference to Walking and Cycling



Additionally Appendix C – Landscape Plan depicts a “Walking Track 1.0m wide” which connects to Infinity Drive and also Bull Ridge. The plan also depicts, via a blue dashed line, a single track mountain bike trail. However is not clear if this is existing or proposed.

Assessment

A site visit was undertaken on Thursday 19 May 2016 to familiarise myself with the site and construction constraints.

“Single-track Mountain Bike Trail”

The blue dashed line depicted on the Landscape Plan as single track mountain bike trail appears to be a section of the “Sticky Forest” Mountain Bike Park, the particular route known as “Thread the Needle”.

It is not clear if any amendments are to be made to this trail. If any changes are to be made to this existing alignment they must be carried out with consultation with the Aspiring Tracks Network. I understand that some initial correspondence has been undertaken between Infinity Developments and ATN.

Single Track mountain bike trail design and construction is covered by IMBA Guide to Building Single-Track.

Thus no assessment was carried out as it’s not clear if any changes are to be made and the majority of this trail is not a developer proposed piece of infrastructure.

However it was noted that the proposed development will be noticeable from the existing trail. It is not clear if this user group has been taken into consideration in the Vivian and Espie Landscape Assessment.



Image 2 – Proximity of Developer PVC pole to “Thread the Needle single track” – Approximately 40m

“Walking Track 1.0m Wide, Compressed Gravel”

Appendix C, Landscape Plan, depicts a blue solid line exiting from Infinity Drive, proceeding east to connect with “Thread the Needle” trail and also proceeding north to form a loop connecting with the end of Bull Ridge.

There is an existing concrete stub connection currently built on Infinity Drive which suggests it is the connection point for the trail.



Image 23 – 1.0m wide walking track connection point

The trail is described as a walking trail with a width of 1.0m, that being the extent of technical information supplied for the trail. No information is supplied relating to design or construction.

However, as the trail is connecting to an existing mountain bike trail it is appropriate that this trail be designed as a dual use trail for walkers and cyclists. This upgrade is supported by evidence of mountain bike use on the existing gravel trail depicted in pink on the Landscape Plan, also titled Walking Track.





Image 4 – Existing “Walking Track” – Cycle Evidence

As this trail will be providing access to a varied group of users from families to cyclists it is appropriate that the trail be designed to a minimum of Grade 2, under the QLDC Cycle Trail and Track Design Specification, please see attached QLDC Cycle Trail and Track Design Standards and Specification. This allows for a minimum trail width of 2.0m but generally 2.5m in width for side by side riding along with controls over gradient and site distance to avoid conflict. The wider trail width enables dual use and provides opportunities for passing, whereas a 1.0m wide trail provides little to no opportunities, particularly if prams or bikes are being used.

As the trail is connecting to an existing cycle trail consideration could be given to making the trail one direction. Many mountain bike trails include signage at appropriate areas designating one way use to prevent collisions in high speed areas.

Additionally as the trail is passing through an area classified as an Outstanding Natural Landscape (ONL) it is appropriate that the construction of the trail addresses the impact on the ecology, for example the corridor of vegetation that will be cleared. It is not clear if this has been taken into consideration in the Ecology Report.

As depicted on the Landscape Plan the trail passes through a dense area of vegetation and the construction of trail will require a clearance window of 3m to 5m wide.

Summary

The salient points are as follows:

- The AEE briefly discusses Walking and Cycling however not in enough detail to provide detailed comment on.
- One walking/cycling trail is provided – the blue line on the Landscape Plan, titled 1.0m wide compressed gravel trail.



- The dashed blue line detailed on the landscaping plan is an existing MTB trail related to the Sticky Forest Mountain Bike Park.
- No technical information relating to the trail design or construction is provided or its compliance with the QLDC Cycle Trail Design Standards or other guide.
- It is not clear if the construction effect of a trail, i.e. a clearance window through the vegetation above and below the ONL line, has been taken into consideration.
- It is not clear if the Landscape Assessment takes into consideration the mountain bike user group.
- Consideration should be given to upgrading the proposed 1.0m wide walking trail to a minimum grade 2 trail as per the QLDC Cycle Trail Standards

Regards



Giulio Chapman-Olla
Projects Engineer





QUEENSTOWN
LAKES DISTRICT
COUNCIL



Cyclists enjoying the Gibbston River Trail, Image courtesy Queenstown Trails Trust

Cycle Trail and Track Design Standards & Specifications

Contents

Introduction	3
Overarching Goal	3
Purpose	3
Scope of this Guide	3
Overview of Trail and Track Design Standards – QLDC, NZCT/DOC, IMBA	4
Trail and Track Grading & User Groups	5
Trail and Track grading system comparison – NZCT, DOC, QLDC	6
Detailed Trail Grade Specifications	6
Grade 1	6
Grade 2	6
Grade 3	7
Cycle Trail Design Considerations	8
Step 1: Identify the User Group & Required Trail Grade	8
Step 2: Design Alignment	8
Desire Line	8
Hairpins and Switchbacks	9
Curves, Hills and Cross Fall	10
Design Approval by QLDC	10
Trail Construction & Completion	11
Trail Defects & Defects Period	11
Appendix A – Grade 2 Construction Specification	11
Appendix B – Typical Design Cross Sections	11
References	12

Prepared for QLDC by:



Introduction

The Queenstown Lakes District Council administers over 180km of cycle trails and tracks. These trails and tracks are a valuable asset to the Lakes District and the purpose of this standard is to ensure greater consistency and quality in the development of all new trails. For simplicity, trails (as called in Wakatipu) and tracks (as called in Wanaka) will collectively be referred to as trails by this document.

The development of a cycle trail design standard is being driven by the increasing development of cycle trails in the Queenstown Lakes District and in particular trails developed as part of private land development projects as well as those created by volunteer organisations.

The Council has recently taken over ownership of numerous sections of cycle trail in both Wanaka and Queenstown and many of these have been built with significant design and construction defects which results in the ratepayer funding realignment and repair works. Council is looking to minimise this cost and ensure better quality trails are developed in the future to be fit for purpose.

This standard is intended to guide cycle trail designers and developers to achieve consistently high standards of cycle trail best suited to meet long term community needs (network connections and latent demand) and minimise ongoing maintenance costs to Council, as the trail owner.

The guide has been developed to closely mirror the New Zealand Cycle Trail (NZCT) "Cycle Trail Design Guide", 2010 with minor changes to take into account changes in design and construction that have arisen during the course of the National Cycle Trail projects. The changes are in maximum gradients, surface finish and additional detail on trail geometry that was not dealt with by this previous standard.

The NZCT guide implemented and widely publicised the 1-6 trail grading system used by the mountain biking community. In terms of trails developed within the QLDC, these will be graded 1-3 with tracks graded 4-6 being purpose built mountain bike tracks and not cycle trails. Development of mountain bike tracks is outside of the scope of this standard.

Additionally, the Department of Conservation (DOC) also have track design guides. These mainly relate to walking track construction and are available on the DOC website. DOC has adopted the NZCT grading system of rating trails as 1-6.

Overarching Goal of this Design standard and Construction Specification

To guide land developers and trail designers to achieve a high quality cycle trail specifically designed and built to cater to the needs of the community(s) it connects and serves and that minimises future maintenance costs to Council.

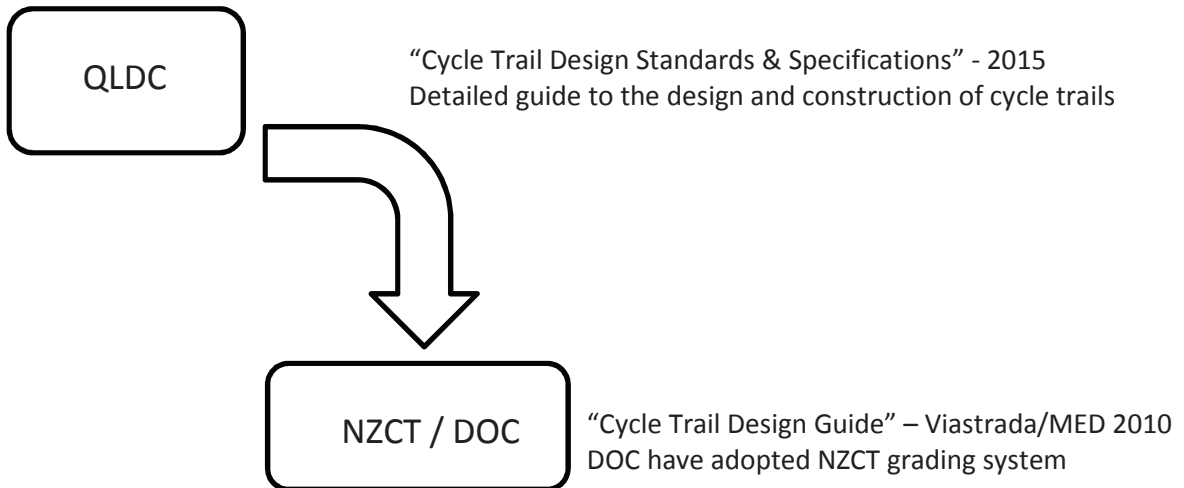
Scope of this Guide

The design and construction of Grade 1-3 cycle trails. The design and construction of 'mountain bike' tracks (Grades 4-6) is very well covered by the IMBA "Guide to Building Sweet Singletrack" 2004 design guide (Refer references section). DOC's track design guides are best suited for the design of walking tracks only.

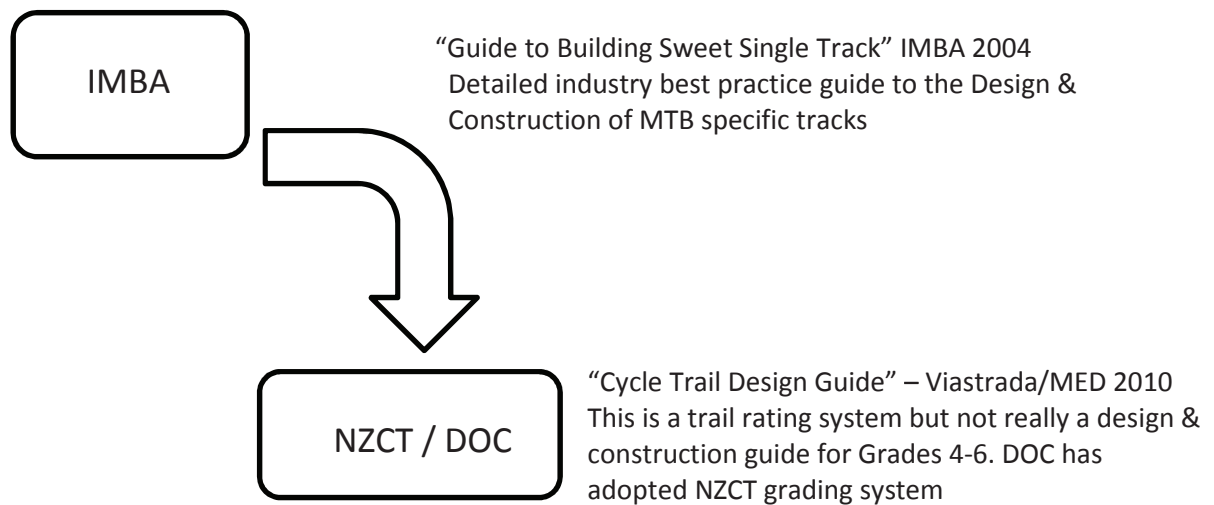
The design and construction of trails suited to horses has not been considered as part of this guide.

Overview of Trail and Track Design Standards

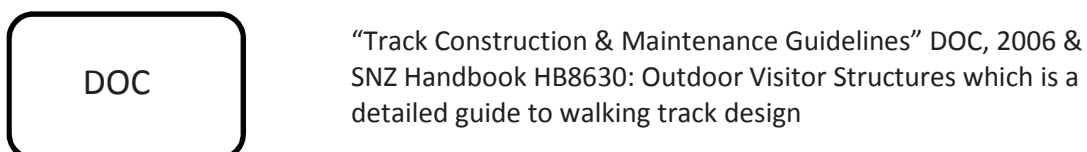
GRADE 1, 2 & 3 CYCLE TRAILS



GRADE 4, 5 & 6 MTB TRACKS



WALKING TRACKS



Trail Grading & User Groups

The New Zealand Cycle Trail Project (NZCT) commissioned a design guide in 2010 as part of the nationwide cycle trail development project. Completed by Viastrada this guide is the best starting point in the identification of a cycle trail grading system. (See *Cycle Trail Design Guide 2010 – Ministry for Economic Development*)¹.

Over the intervening 5 years we have refined this system and present the refined grading technical specifications as follows:



- I. Grade 1 – Easiest; gentle grades up to 2 degrees (1: 28) with short sections <100m up to 3 degrees, wide (2.5m+) and smooth trail ideal for all user groups. No fall hazards. These are ideal for connecting communities and where families and novice cyclists are likely to be present.



- II. Grade 2 – Easy; Some gentle hills up to a maximum of 4 degrees (1: 14), wide (2-2.5m) with some short (<50m) narrow sections of minimum width 1.5m, smooth surface with critical fall hazards within 2m of track edge fully protected. These are ideal for connecting communities and where families and novice cyclists are likely to be present but where Grade 1 gradients cannot be achieved due to terrain constraints.



- III. Grade 3 – Intermediate; gradients 0-4 degrees typically, more regular hills acceptable up to a maximum 6 degrees (1: 10) where unavoidable terrain, width 1.2-1.5m and extended narrower sections of minimum width 1.2m. Critical fall hazards at track edge protected only. This is essentially an easy mountain bike track.

The majority of trails within the QLDC network are classed as Grade 1-2 with a few being Grade 3. Table 1 gives a breakdown of the various grades for existing local trails.

In order to provide the greatest accessibility to any new trails, every trail should be designed to meet Grade 1 or 2. Grade 3 should only be considered where the users are predominantly not commuters, families or novice cyclists and the trail is not forming part of a connective network to link communities or part thereof. In other words, not a critical linkage to the cycling network.

Comparison with NZCT/DOC Grading System

DOC has adopted the now widely used Kennet Brothers/NZCT trail grading system using numbers 1 to 6 to classify trails according to trail difficulty. Below is a brief overview of the difference to this standard

NZCT Grade 1 – Same except grades not allowed to be steep if ridden in one direction only.

NZCT Grade 2 – Allows maximum grade of 6 degrees (leading developers to use this as a default grade), allows surface roughness like roots and rocks (not suited to rider group), topcourse aggregate of 30mm particle size (too coarse for good surface finish – Max 20mm)

NZCT Grade 3 – Allows grades up to 5 degrees (too steep, likely to cause rutting) and maximum grades of 9 degrees (too steep for most riders, ruts badly)

In summary this new standard responds to the desire of many trail developers to seek the shortest and steepest line for their trails. Setting lower grade limits and including trail geometry and cross fall

¹ <http://www.nzcycletrail.com/about/resources>

details in the design specification is aimed at reducing the most common trail defects noted in this region.

Detailed Trail Grade Specifications

The minimum specifications for each trail grade can be expanded as follows:

Grade 1



- A minimum width of 2.5m allowing for side by side riding. This makes passing and overtaking easy, and provides sufficient width for novice riders to feel secure. The minimum width may be reduced to protect historic features, or for environmental or visual amenity reasons. Width also caters for 4wd vehicle access for maintenance purposes.
- Maximum prolonged gradient of 2 degrees (1:28). Maximum gradient of 4 degrees (1: 14)
- Maximum out-slope cross fall of 3% for straight sections of track.
- Corners shall have a minimum inner radius of 6.0m and in-slope gradient or cross-fall of 6-8% except hair pins which must not exceed Typical Detail Sheet R4030_E3_3 of 2.5m
- Minimum structure width of 2.0m clear. Clear means between the closest parts of the barriers.
- A clearly sign posted, well defined trail from beginning to end so visitors can easily find their way in both directions and during inclement weather
- A compacted, well bound smooth riding surface with suitable camber to provide a pleasurable and easy riding experience. Riders should never feel they are going to slide off the trail. Minimum compacted aggregate depth of 75mm
- All water courses to be culverted or bridged
- All areas of fall hazard (exposure) shall be protected with barriers that meet the building code.
- No stiles are to be used. All fences are to be crossed using cattle stops/bollards
- Sight lines – a minimum of 15m clear sight distance is to be achieved around all corners

Grade 2



- A minimum width of 2.0m but generally 2.5m wide allowing for side by side riding. This makes passing and overtaking easy, and provides sufficient width for novice riders to feel secure. The minimum width may be reduced to protect historic features, or for environmental or visual amenity reasons. Width also caters for 4wd vehicle access for maintenance purposes.
- Maximum prolonged gradient of 4 degrees (1:14) but where length >100m it must be broken with flat recovery sections 10m long minimum at 50-75m spacing's. Maximum gradient of 6 degrees (1: 10) for no more than 30m without a flatter recovery section of equal or greater length
- Maximum out-slope cross fall of 3% for straight sections of track.

- Corners shall have a minimum inner radius of 6.0m and in-slope gradient or cross-fall of minimum 6-8% (to be suited to the trail geometry to ensure slip free riding at design speed) except hair pins which must not exceed Typical Detail Sheet R4030_E3_3 of 2.0m
- Minimum structure width of 2.0m clear. Clear means between the closest parts of the barriers.
- A clearly sign posted, well defined trail from beginning to end so visitors can easily find their way in both directions and during inclement weather
- A compacted, well bound smooth riding surface with suitable camber to provide a pleasurable and easy riding experience. Riders should never feel they are going to slide off the trail. Minimum compacted aggregate depth of 75mm
- All water courses to be culverted or bridged
- Areas of significant fall hazard shall be protected with barriers that meet the building code. Areas of exposure where there is not a significant hazard may be protected with fencing, bunding, vegetation or signage
- No stiles are to be used. All fences are to be crossed using cattle stops/bollards
- A minimum of 10m clear sight distance is to be achieved around corners, or additional warning/speed calming measures may be required to avoid user conflict.

Grade 3



- A minimum width of 1.2m but generally 1.5m wide allowing for comfortable single file riding only. The minimum width may be reduced to protect historic features, or for environmental or visual amenity reasons over short (50m) sections. Width caters for quad bike access for maintenance purposes.
- Maximum prolonged gradient of 6 degrees (1: 10) for sections not longer than 100m with flat sections of minimum 25m length between. Maximum gradient of 9 degrees (1: 6) for no more than 30m without a flat recovery section of equal or greater length
- Maximum out-slope cross fall of 3-6% for straight sections of track.
- Corners shall have a minimum inner radius of 3m and in-slope gradient or cross-fall of minimum 8-15% (to be suited to the corner, speed and trail geometry) except hair pins which must not exceed Typical Detail Sheet R4030_E3_3 of 1.2m
- Minimum structure width of 1.2m clear. Clear means between the closest parts of the barriers to ensure quad bike access.
- A clearly sign posted, well defined trail from beginning to end so visitors can easily find their way in both directions and during inclement weather
- A compacted riding surface of either insitu gravels or imported gravel to provide an all-weather surface. Minimum depths to suit ground conditions
- Trail cross fall to provide an enjoyable riding experience for intermediate riders. Riders should never feel they are going to slide off the trail due to incorrect cross slope.
- Water courses may be crossed with fords or be culverted or bridged if required. Any areas of soft or boggy ground shall be made all weather to prevent mud and damage to the trail surface

- Areas of significant fall hazard shall be protected with barriers that meet the building code. Areas of exposure within 1m of the trail edge where there is not a significant fall hazard may be protected with fencing, bunding, vegetation or signage
- Stiles may be used but preference should be given to using Cattle stops for convenience and maintenance purposes. Where a stile is used a gate is required adjoining for maintenance use.
- A minimum of 5m clear sight distance is to be achieved around corners, or additional speed calming measures (trail alignment, sag, etc.) are required to avoid user conflict.

Cycle Trail Design Considerations

Step 1: Identify the User Group & Required Trail Grade

If the proposed trail is connecting communities and will form part of a larger network, then the minimum standard will be Grade 2 (Always design to achieve the best grade where possible).

The user groups for Grades 1 and 2 are as follows:

- a) Families including small children
- b) Novice riders who either have never ridden or ride infrequently
- c) Cycle tourers and commuters*
- d) Mountain bike riders
- e) Accessibility users

Groups (a) and (b) require a safe enjoyable cycling experience that is accessible with limited/no cycling skill. The trail must be designed with the needs of the most discerning user group in mind. For the above this would be families and novice riders. Cycle tourers, commuters and mountain bikers have a higher degree of skill and experience making them able to handle less well formed trails².

Having identified the user group, the designer should aim to achieve the flattest grade possible to meet the highest Grading. This ensures the maximum utility and accessibility to the community irrespective of other aspects of the design.

Step 2: Design Alignment

The designer needs to consider how to fit the trail into the land to minimise gradients, minimise hairpins, control storm runoff and drainage, climb hills, design and integrate structures and achieve the required width and finish that creates or results in a desire line.

² Commuter tracks require slightly different design considerations outside of the scope of this guide

Desire Line

The designer needs to understand where the trail users are coming from (How do they access the trail) and going to (where will they leave the trail network) as well as how will the riders respond to the trail alignment in order to understand the desire line. Desire line refers to the preferred alignment for trail users and manifests itself in riders cutting corners or short cutting sections of trail they consider 'undesirable' when it has not been achieved.

An example of an error in desire line is making curves across a flat open section of terrain when a straighter piece of trail would suffice. Riders are likely to cut corners in this situation. Each section of trail should be considered from the rider's perspective to ensure that *desire line* is achieved as much as possible.

Ultimately desire line can be hard to predict. A designer needs to consider this especially in open country where riders can see the destination.

Hair pins or Switchbacks

It is often necessary to use hair pins (corners of ~180 degrees) to negotiate steep terrain. The use of hairpins needs very careful consideration to avoid rutting, erosion damage and safety issues for novice or inexperienced riders.

Hairpins should be graded such that the longitudinal grade through the corner is no more than 2 degrees with the cross-fall sloped to the inside to match the speed of travel such that the corner at the design speed feels safe and secure without sideways slipping.

Hairpin radius should be as wide a possible within the terrain constraints but not less than the minimum specified in design drawing R4030_E3_3 attached in Appendix A.

The approach to a hairpin should provide enough sight distance for riders to slow down prior to the corner without locking their brakes and skidding. This requires that the approach gradient is quite flat (0-2 degrees) and the surface is well compacted. It is unacceptable to have a constant 4 degree grade into and through a hairpin as the approach will rut causing operational and maintenance issues. Designers may use a rolling-up grade dip (sag) to slow riders naturally prior to a corner. This reduces the likelihood of skidding and loss of control through the corner.

Curves, hills and Cross-fall

In hilly terrain, curves should follow the terrain. Additionally the terrain should be used to assist drainage with low points in gullies and higher points near ridges. This promotes drainage towards gullies.

The trail surface cross-fall should reflect the terrain and trail geometry. Out sloped corners (very dangerous) are to be avoided at all costs. When a corner is properly designed and built a rider feels well connected to the trail through adequate cross-fall for the design speed and side friction. Refer

to the typical cross sections attached for guidance. There are no set rules, but the designer must ensure that the completed trail rides without inducing side slip or fear in the target user group.

Geotechnical Assessment of Trails

At the initial scoping stage it is desirable to undertake a desktop assessment of available information to pin point any possible areas of instability where a trail is proposed. This allows appropriate planning and funding to be included at the design stage. Additionally the designer should walk the trail alignment to confirm no obvious areas of instability

During the design stage known areas of instability should be addressed by specific design or alignments. If avoidable, this is the preferred option. However, as most trails are built on public land adjoining water ways, often the only option is to build over these areas.

As part of the following approval process, areas of instability should be clearly identified on the design plans together with site assessment and solutions. Council wish to avoid ongoing maintenance issues relating to instability in cycle trails and it is hoped such planning will reduce the incidence.

Design Approval by QLDC

Prior to any works commencing on the site, the trail designer shall submit the trail design plan, long section (if available – for large projects it is often not possible or cost effective to prepare detailed terrain models), typical cross section, trail design user group and outline of how the trail caters to the user group and fits the trail network together with construction specifications to QLDC for approval prior to commencing any trail works on site.

Additionally the designer shall ensure the proposed trail is marked out on site with flagging tape at no more than 20m intervals and staked in detail for hairpins and curves to ensure the proposed alignment is able to be assessed in detail. The assessment will include a minimum of alignment and gradient checks.

QLDC shall have the opportunity to inspect the trail alignment on site with the designer. Any amendments requested by the Council shall be addressed to Council's satisfaction prior to approval of the works.

While the approval process is designed to identify errors in the design and layout of the trail, it is not possible to anticipate every issue. Further, due to terrain constraints, vegetation cover and access, it may not be possible to assess and design every section of trail in a cost effective manner. Therefore, the **design approval does not** in itself **reduce any liability on the trail developer** to achieve the standards and riding requirements detailed in earlier sections of this standard.

Trail Construction & Completion

At the completion of works, the trail contractor and developer shall certify the works as complete and issue a completion certificate in the form of NZS 4404:2010 Schedules 1B & 1C. The Council shall then inspect the works to confirm the completed trail meets the needs of the user groups/community the trail serves. This shall include test riding the completed trail, measuring grades and cross falls and corner radius. The completion inspection is not solely a compliance check but a confirmation of achieving the needs of the trail user.

Where the trail is found to be deficient in terms of grades, alignment, cross fall or other defects (see defects section), the trail developer shall remedy the defect prior to Council signing the s224c certificate and/or taking over the trail asset. Alternatively the trail developer may enter into a cash bond for the value of the works in accordance with Council's bonding policy for land development works.

For trails involving structures that do not require a building consent the trail developer shall submit the following to Council:

- NZS 4404:2010 Schedule 1B (contractors completion)
- NZS 4404:2010 Schedule 1C certificate (Construction review)
- Typical design details for the structure

Where a structure requires a building consent, the trail developer shall supply Council's Parks Department a copy of the building consent documents including PS1, PS3, PS4 and Code Compliance together with design drawings and/or as-built drawings prior to sign off/acceptance of the asset. While this may be a double up on the BC process, often the design detail is not readily accessible and the purpose is to ensure the Parks Department has a complete set of documents for ongoing operation and maintenance.

Additionally all trails and structures including bridges, culverts, signs, bollards, cattle stops, fences etc. shall be accurately surveyed and an as-built plan prepared and submitted in accordance with Council's land development standards to detail all trail related assets being taken over by Council.

The Defects Period

Once the works have been signed off by Council as complete, the trail developer shall be responsible for a 12 month defects period. At the completion of the defects period, Council shall be advised and a final inspection undertaken. The final inspection shall assess the trail as if it were in the **new as-built state**. That is the trail developer shall be required to present the trail in an as-new condition at the end of the defects period.

If the trail requires changes to alignment to avoid or remedy rutting, surface erosion or desire line errors, the trail developer shall be responsible for such modifications at their cost prior to Council taking over responsibility irrespective of whether these were noted at the time of the design

approval or completion inspection as often it takes time for errors in design and construction to manifest through use of the trail.

The following parameters shall be achieved for completed trails at the end of the defects period:

- The trail shall have good flow and speed control that does not result in rutting or surface erosion from skidding
- Finished surface shall be interlocking at the end of the defects period and free from loose gravel.
- The surface of the gravel and +0.5m either side of the formation edge shall be clear of all weeds. If there are weeds within the surface gravel, this shall be considered a defect and the developer shall be liable to remedy by mechanical removal.
- Within all the earthworked areas adjoining the trail, all noxious weeds shall be removed
- All verges shall be mown/cut to a maximum 350mm height up to +0.5m off the edge of the formation
- Any stormwater erosion shall be stabilised with rock protection or matting
- Adverse cross fall shall be rectified
- Any silting of culverts or debris in culverts or water tables shall be cleared
- Full design width shall be presented
- Vegetation shall be clear 1.0m beyond the edge of the trail and 2.5m above the trail

Trail Construction Specification – Grade 2

Attached as Appendix A is the standard Construction Specification for a Grade 2 Trail. The specification outlines the standard work methodologies required to complete a cycle trail to Council standards.

Where designers are forming a Grade 1 or Grade 3 trail, the specification shall be modified in accordance with the section “Detailed Trail Grade Specifications” to take account of differing maximum gradients, curve radius, surface and so forth.

Trail Construction – Typical Cross Sections & Details

Attached as Appendix B are typical cross section and detail plans ref R4030_E3_1-4. These provide design detail in relation to typical cross sections in different terrain, use of curves and hairpins and other typical details used in cycle trail construction but are not intended to cover every aspect of trail construction.

References

- International Mountain Bicycling Association (IMBA) “Guide to Building Sweet Single Track”
- Standards New Zealand NZS HB 8630:2004 – Tracks and Outdoor Visitor Structures
- “Cycle Trail Design Guide” 2010 Viastrada/MED, prepared for the New Zealand Cycle Trail Project
- QLDC Cycleway Maintenance Specifications c.2010
- Standards New Zealand NZS 4404:2004 – Land Development & Subdivision Engineering
- “Track Construction & Maintenance Guidelines” 2006, Department of Conservation

About the Author



Southern Land Ltd is a Wanaka based surveying, resource planning and land development consultancy. Our cycle trail projects include the design & development of the Alps to Ocean, Roxburgh Gorge and Clutha Gold Trails plus involvement in mountain bike parks, mountain bike tracks and outdoor recreational facilities across Otago. Southern Land Ltd has recently completed a feasibility study for trails linking Cromwell to Clyde and Wanaka to Cardrona. Southern Land Ltd was a finalist in the IPENZ New Zealand Engineering Excellence Awards 2014 for the Clutha Gold Trail.





QUEENSTOWN LAKES DISTRICT COUNCIL

GRADE 2 - CYCLE TRAIL CONSTRUCTION -TECHNICAL SPECIFICATION -

1.0 TRACK CONSTRUCTION

1.1 Track Alignment

- 1.1.1 The track alignment is marked on site with RED/WHITE flagging tape. Markers are generally spaced at 20-50m intervals.
- 1.1.2 The Contractor is responsible for setting out and constructing the track following these markers.
- 1.1.3 If the Contractor wishes to deviate the track formation more than two metres either side of the design line, specific approval shall be obtained from the Engineer for each and every deviation.
- 1.1.4 Deviation from the design line up to two metres either side may be made to avoid living trees, archaeological features, fallen logs, rocks or adverse ground conditions. Approval from the Engineer is not required in such instance.
- 1.1.5 The Contractor shall be responsible for ensuring the maximum track gradient requirements in this specification are not exceeded on the track. If the Contractor believes this cannot be achieved on the design line or within two metres of this then he shall advise the Engineer.
- 1.1.6 The constructed formation shall follow the most practical line to achieve the design grades and to create an enjoyable riding experience appropriate to a Grade 2 trail (See QLDC Cycle Trail Design Standards 2015).

1.2 Formation Earthworks, Width & Grade

- 1.2.1 All organic material shall be removed from the track formation area prior to commencing any formation earthworks. Where possible, leaf litter and top soil shall be retained adjacent to the track for spreading over exposed earthworks on completion of the formation.
- 1.2.2 Tree roots up to 100mm diameter shall be removed where necessary to enable formation excavation.



- 1.2.3** Where the track is constructed on a cross slope of less than 3 horizontal to 1 vertical, the track bench may be constructed using a combination of cut and fill formation or fill formation as shown on the drawings. Excavated material from the formation may be used to fill the outer edge of the track bench provided it is compacted in place with suitable equipment.
- 1.2.4** Where the track is constructed on a cross slope of greater than 3 horizontal to 1 vertical, a full cut formation (full bench) detail shall be used as shown on the typical detail. Cut slope batters may be constructed up to 4 vertical to 1.0 horizontal in soil and may be vertical in solid rock and dense silts and gravels. Cut batters shall not exceed 2.5m in vertical height. If cut batters greater than 2.5m are considered by the Contractor to be necessary, the Engineer shall be notified.
- 1.2.5** The track formation shall be shaped to achieve the required track width and to ensure the track longitudinal grade is within the required maximum limits. The maximum grade on any section of track shall not exceed the following:
- 1 in 14 (4°) on regular sections of track
 - 1 in 30 (2°) on switchbacks and structures
 - Or as directed by the Engineer
- 1.2.6** The required 'usable cycling surface' width shall be **2.0m** unless otherwise specified by the Engineer. This shall take into account horizontal clearances required from cut/fill batter slopes, handrails (0.5m), trees (0.5m) etc as detailed in Section 3.5 of NZCT Cycle Trail Design Guide Feb 2010.
- 1.2.7** Final shaping of the track surface shall take place **after** the installation of culverts.

1.3 Filling

- 1.3.1** There should be no vegetation or other organic matter in fill material that forms part of the track formation.
- 1.3.2** Fill material shall be placed in layers not exceeding 300mm loose depth and shall be compacted using appropriate mechanical equipment. Where the slope exceeds 3 horizontal to 1 vertical a bench shall be formed to enable fill material to key into the existing ground and facilitate compaction.
- 1.3.3** Fill material shall not be used where the moisture content is at or above the plastic limit as densification cannot be achieved. Such material shall be placed outside the track formation.
- 1.3.4** Fill slopes shall be left in a smooth and tidy condition. It shall be the contractor's responsibility to make good any batter slumping

or subsidence which occurs during the operation of this contract and including during the defects liability period.

- 1.3.5** Where fill is intended to be placed onto soft or swampy ground, the Engineer may advise the Contactor to lay geotextile material to separate the fill material. Geotextile shall be laid in accordance with manufacturers recommendations.

1.4 Track Drainage

- 1.4.1** Rolling grade dips (grade reversals) shall be formed in the track surface to divert surface water on sloping sections of track at $\leq 30\text{m}$ spacing's where water tables are not installed. Grade reversals shall be 2-3m in length and be of a smooth profile to ensure a smooth ride for cyclists.
- 1.4.2** Water tables in accordance with the typical details shall be installed on each section of track formation prior to placing top course metal.
- 1.4.3** Water tables shall have a grade of $>1\%$ towards the discharge point (if any). A discharge point shall be provided anywhere there is a sag point in the track.
- 1.4.4** Water table discharge points shall be installed at the following spacing's or as directed by the Engineer:
- 50m where the track grade is $\leq 1:20$ (3°)
 - 15m where the track grade is between $1:10$ and $1:20$ (3° - 6°)
- 1.4.5** Water table discharge shall consist of **minimum 250mm** smooth walled culvert under the track to direct water to lower ground on the down slope side of the track.
- 1.4.6** Culvert pipes shall be installed with a minimum 5% fall to the outlet and a minimum of 150mm cover to the finished track surface.
- 1.4.7** The inlet to culverts installed for the discharge of water tables shall have a 200mm x 200mm x 250mm minimum deep sump at the culvert inlet which has an invert level at least 100mm below the culvert pipe invert. A 300mm long stop bank shall be provided after the sump pit to force water into the pipe.
- 1.4.8** Culverts shall be of sufficient length to pass under the track and extend beyond any fill.
- 1.4.9** The outlets of culvert pipes shall discharge at ground level without a free fall from the end of the pipe. Where the outlet slope is on steep loose material, a rock apron shall be provided to prevent scour.

- 1.4.10** Culverts shall be smooth bore Farm Tough type coloured black of **minimum 250mm internal diameter or similar** as approved by the Engineer.
- 1.4.11** The inlet and outlet of culverts that discharge continuous water flows shall include local stone/mortar headwalls.
- 1.4.12** Where the culvert discharges only stormwater and the inlet or outlet may be subject to maintenance vehicle loads (that is they are within 300mm of the track edge), the headwalls shall be mortared.
- 1.4.13** For all other culverts where the inlets and outlets are not able to be driven on, headwalls are optional
- 1.4.14** Lintel rocks for headwalls shall have a minimum diameter (or long side) of not less than 2x culvert diameter for pipe sizes 250-500mm diameter.

1.5 Track Shaping

- 1.5.1** Prior to placement of track surfacing aggregate, the track sub-grade shall be shaped as follows
- Crowned surface having a **maximum 3%** fall to each side from the centreline for straight sections in flat country.
 - Single slope formation with a 3% fall to the downhill side for straight sections in hilly country or where side drains are not provided.
 - Single cross slope formation with a **5-10% fall to the inside of corners** for winding sections.
 - If after rain, water is left sitting or pooling on the surface, this will be considered a defect and require rectification by the contractor.

1.6 Pavement Surfacing

- 1.6.1** Prior to placement of track surfacing, the strength and density of the track sub-grade shall, wherever possible, be improved by the use of suitable compaction equipment such as vibrating rollers or plate compactors.
- 1.6.2** Suitable surfacing material shall be a crushed & well graded AP20 (or smaller) type aggregate having a maximum particle size of 20mm and be supplied from a weed free source. The stone particles shall be durable with at least **50% crushed faces**. Rounded particle river gravels or beach gravels are not acceptable as a track surfacing aggregate

- 1.6.3 Ideally the track surfacing aggregate shall have a range of particle size distribution including between **5-8% by weight portion of clay** content to facilitate binding the surface.
- 1.6.4 A sample of aggregate shall be provided to the Engineer for approval prior to placement.
- 1.6.5 The track surface layer shall have a minimum compacted depth of 75mm (equates to 100mm loose). This layer shall be placed and compacted in a single layer or where additional material is added after compaction the original layer shall be scarified prior to placement of the additional aggregate.
- 1.6.6 The aggregate shall be placed in such a way as to minimize segregation of the particle sizes. Shovels, beam rakes or excavator buckets should be used to move material if required.
- 1.6.7 The surface shall be shaped to achieve the required cross fall and longitudinal smoothness with a grader or similar machine. Grading with an excavator is not acceptable.
- 1.6.8 The aggregate surface shall be compacted after placement with a plate compactor or other vibrating equipment to achieve a well bound surface suitable for cycling. The cross fall of the finished track surface shall be as stated in Section 4.5.1.
- 1.6.9 To achieve optimum compaction, water shall be sprayed onto the aggregate surface. Compaction will be deemed complete when a well bound pavement surface is achieved which is free of voids and loose stone.
- 1.6.10 The completed track surface shall be free from loose stones (interlocking mosaic is required) and **surface undulations** to achieve a smooth & comfortable riding experience. Wavy or corrugated surfaces shall be deemed a defect and shall not be acceptable. The final test shall consist of riding a standard non-suspended bicycle along the completed surface to check for such defects.

1.7 Rock Excavation & Blasting

- 1.7.1 Areas requiring rock excavation are not necessarily shown on the design drawings.
- 1.7.2 Blasting of rock may be used where it is not practical to break or remove rock by mechanical means and achieve a solid level surface finish for the formation.
- 1.7.3 Any rocks that are too large to move whole shall be drilled and blasted.

- 1.7.4** All blasting shall be carried out in accordance with the Department of Labour Code of Practice for Construction Blasting Safety.
- 1.7.5** The Contractor shall provide the Engineer with at least **48 hours notice before blasting operations are to commence**. The Ministry of Business Innovation & Enterprise shall be notified at least 24 hours prior to the blasting commencing.

2.0 HERITAGE & ENVIRONMENT

2.1 Archaeological Matters

- 2.1.1** If any archaeological evidence in the form of mining relics, stacked stone tailings, water races, sluicing, shell, bone, charcoal, greenstone, hangi stone, or artefact is uncovered during any construction, work must cease in that particular area and the Engineer must be notified immediately.
- 2.1.2** Work in the vicinity of sites where archaeological evidence is uncovered shall not re-commence until the Engineer gives approval. Delays due to unexpected finds may be a variation at the applicable rates.
- 2.1.3** The contractor shall implement all mitigation measures approved in any archaeological authority obtained from the Historic Places Trust relating to track works. If this is not practical, they shall advise the Engineer prior to any works covered by such Authority.

2.2 Vegetation

- 2.2.1** The survey line/design plans marked will identify all vegetation requiring removal. Mature trees will be affected in some areas due to legal access constraints but in general the track alignment should consider options around mature trees and any significant fauna.
- 2.2.2** Any tree exceeding 300mm diameter, that needs removal will be identified prior to the start of any works; any tree exceeding 300mm diameter must have the approval of the Engineer before it can be removed.
- 2.2.3** The completed track must have a cleared vegetation line of 2.5m vertical and a horizontal line of 1.0m either side of the track edge. All stumps created in the course of the construction are to be removed unless indicated by the engineer. All slash, branches and removed stumps must be removed from site or chipped or burned (note burning requires a permit from the TA).

2.3 Health & Safety

- 2.3.1** The Contractor shall at all times comply with the provisions of the Health and Safety in Employment Act 1992. The Contractor shall take all necessary steps to ensure that the obligations placed on the “Principal” and the “Person who controls the place of work” under the provisions of the Act are complied with at all times and shall immediately advise the Principal of any obligations not being fulfilled.
- 2.3.2** The Contractor shall prepare a Safety Plan, which shall identify all potential risks and hazards to all personnel on site. The plan shall include safety procedures, requirements for protective clothing and equipment, safety equipment, mitigation procedures, emergency procedures, emergency communications and any other requirements deemed necessary.
- 2.3.3** The Safety Plan shall be submitted to the Engineer by the Contractor who shall confirm that the Safety Plan has been implemented and is operating on the site.
- 2.3.4** If at any stage during the course of the works, the Engineer or the delegated representative(s) observe activities or procedures which do not comply with the Safety Plan, a ‘Stop Work’ notice may be issued to the Contractor.
- 2.3.5** Extensions of time arising out of ‘Stop Work’ notices issued to the Contractor due to non-compliance with the Safety Plan will not be considered.
- 2.3.6** The Contractor shall ensure that during the execution of the Contract there is no risk to the health and safety of other Contractors or employees of DOC, LINZ or Contact Energy, or to members of the public that may be in the vicinity of the site.
- 2.3.7** The Contractors’ Safety Plan shall include particular procedures with respect to maintaining the safety of users of the track during construction including use of appropriate signage, barriers and other protection deemed necessary.
- 2.3.8** The contractor shall use all practical means to prevent members of the public from using any structures until such time as a Code of Compliance Certificate has been issued for the structure.

2.4 Building Consent

- 2.4.1** The Contractor shall comply with all conditions of Building Consents relating to structures.

2.4.2 If inspections are required by the Council building inspectors, it shall be the Contractor's responsibility to ensure that the Council is kept informed and given sufficient notice as to when inspections are needed.

2.4.3 The Principal shall obtain all building consents unless otherwise noted.

2.5 Resource Consent

2.5.1 The Contractor shall comply with all conditions of Resource Consents relating to track formation and structures.

2.5.2 If inspections or monitoring is required by either the QLDC or ORC it shall be the Contractor's responsibility to ensure that the Council is kept informed and given sufficient notice as to when inspections are needed.

2.6 Producer Statements

2.6.1 The Contractor shall, on completion of the works, provide the Engineer with a Producer Statement-Construction (PS3) as setout in NZS 3910:2003 Schedule 6. The issuing of a Certificate of Practical Completion is subject to the receipt of the PS3.

2.7 Reinstatement of Area & Grassing

2.7.1 The Contractor and any Sub-constructors employed by the Contractor shall reinstate all land affected by the works, including the re-establishment of working areas, to a condition at least equal to that at the commencement of the works. Grass seed shall be spread on all areas of spoil where appropriate.

2.8 Materials brought onto Site

2.8.1 All aggregate brought onto the site for the purpose of track surfacing or any materials brought in as fill, are to be from a weed free source and are to be inspected and approved by the Engineer prior to delivery on site.

2.8.2 Materials are to be stockpiled in approved places and all remnants removed from the site on the completion of the project, except where the Engineer has approved surplus materials that may be left in stockpiles on the site.

2.9 Removal of Waste Material

- 2.9.1** All timber cut-offs, surplus materials and any waste is to be removed from the site at the completion of the work
- 2.9.2** Waste is defined as all foreign material on the site. This includes but is not limited to spilt concrete, nails, wood, plastic and metal off-cuts.
- 2.9.3** Waste or rubbish being held at the site prior to removal is to be stored in such a fashion that it cannot be blown about by the wind. No tyres are permitted.
- 2.9.4** Major repairs to machines are not permitted on site without approval of the Engineer.

2.10 Helicopter Operations

- 2.10.1** The Contractor shall obtain prior approval from the Engineer before each and every helicopter operation.
- 2.10.2** The Contractor is responsible for obtaining all required Civil Aviation and other permits necessary for helicopter operations.
- 2.10.3** The Contractors Safety Plan shall include procedures for such operations and the proposed measures to ensure public safety during the operations.
- 2.10.4** All materials dropped by a helicopter operator either by accident or on purpose outside of approved sites must be reported to the Engineer as soon as possible and any such materials shall be removed as soon as possible. Site restoration work must be carried out to the satisfaction of the Engineer in the event of any damage from dropped items.

3.0 TIMBER STRUCTURES

3.1 Relevant Standards

3.1.1 The underlying Standards relevant to this Section are:

NZS 3601	Metric Dimensions of Timber
NZS 3602	Timber & Wood Based Products for use in Buildings
NZS 3603	Timber Structures
NZS 3604	Light Timber Framed Buildings
NZS 3605	Timber Piles & Poles for use in Buildings
NZS 3640	Timber Treatment Specifications
NZS 1328	Glue Laminated Structural Timber

3.2 Scope & General

- 3.2.1** This section of the contract work shall consist of all carpentry including the associated jointing brackets, cleats, bolts, nails etc as shown on the drawings or specified herein or otherwise.
- 3.2.2** This includes, but is not exclusive to the construction of boardwalks, barriers and retaining walls.
- 3.2.3** **All timber shall be sound, free from knots** and well-seasoned and maintain figured dimensions.
- 3.2.4** All timber shall be rough sawn sizes unless specifically noted otherwise.
- 3.2.5** Timber shall comply with Table 1

3.3 Timber Treatment

- 3.3.1** Treatment shall be as noted in the table below. Treatment shall comply with the current requirements of the Timber Preservation Council. All treated timber shall be branded with the appropriate woodmark. It is preferred that timbers be treated at least 2 months prior to installation.
- 3.3.2** Cut faces of timber sections greater than 50mm thick shall be treated with Metalex or similar field applied preservative treatment.

Table 1: Timber Specification and Treatment

Structure & Application	Species	Grade	Treatment
Round piles	Pinus Radiata.	NZS 3605	H5
Retaining wall boards, Boardwalk end boards and bearers and other sawn timber in contact with the ground or within 150mm of the ground.	Pinus Radiata	G8 or VSG8	H5
Boardwalk joists, bracing, decking and blocking. Barrier balusters and rails	Pinus Radiata	G8 or VSG8	H3.2
Glulam Beams	Pinus Radiata	GL10	H3.2

3.4 Fixtures & Fittings

- 3.4.1 Bolts and washers shall be hot dip galvanised engineers bolts of the diameters and sizes shown on the drawings unless specified otherwise.
- 3.4.2 Bolts may consist of hot dip galvanised or stainless steel threaded rod cut to length on site.
- 3.4.3 All hot dip galvanised rod cut ends shall be treated with 'dry galv' corrosion protection.
- 3.4.4 All galvanised bolts in contact with treated timber shall be protected using general purpose grease in pre-greased holes
- 3.4.5 Thread protrusion past the nut shall be a minimum of one thread pitch after tightening.
- 3.4.6 All nails shall be 100mm x 4.0mm FH galvanised steel unless specified otherwise.
- 3.4.7 The contact faces of washers shall be coated with grease.
- 3.4.8 Washers shall be fitted to both ends of bolts and shall comply with the following minimum standards:

Bolt Size	Washer (mm)
M12	50 x 50 x 5.0
M16	65 x 65 x 5.0

3.5 Protection Up To Installation

- 3.5.1 All materials shall be protected against physical damage.

3.6 Standards of Workmanship

- 3.6.1 All work shall be in accordance with industry best practice
- 3.6.2 Details not shown on the drawings shall be formed according to the principles of NZS 3604 or referred to the Engineer.
- 3.6.3 All work is to be accurately set out.
- 3.6.4 All structural members are to be fixed true to line.

3.7 Foundations & Concrete Work

- 3.7.1 All Concrete used for the embedment of posts or headwalls shall have a 20mm maximum aggregate size and be a mix designed to have a minimum 28 day compressive strength of 20MPa.
- 3.7.2 All concrete shall comply with NZS 3104 or NZS 3108 including specification and techniques setout herein.
- 3.7.3 The contractor shall be responsible for locating any services on site. Any damage to underground services shall be repaired at the Contractors expense.
- 3.7.4 Excavations for foundations are to be built to the dimensions and details shown allowing for working room as required.
- 3.7.5 Where holes are dug or augured for foundations, the Contractor is responsible for ensuring the stability of the hole to ensure the hole maintains its required dimensions before pouring concrete. The costs of any stability work will be deemed to be included in the Contractors tender price.

3.8 Glue Laminated Structural Members

- 3.8.1 All beams shall comply with NZS 1328 GL10 grade.
- 3.8.2 Material for the members shall be Radiata Pine with a moisture content not exceeding 18%.
- 3.8.3 All members shall be made for Category 3: Exterior Exposed. The adhesive used shall be resorcinol glue.
- 3.8.4 End joints should be randomly spaced throughout the depth of a member to avoid concentration of joints.
- 3.8.5 Finish shall be 'standard' in accordance with NZS 3606 unless specified otherwise.

4.0 GABION PROTECTION

4.1 Installation

- 4.1.1 Gabion baskets unless otherwise specified shall be 2m long by 1m high and 1m wide and made from 2.7mm pvc coated wire.
- 4.1.2 Gabion baskets shall be installed in accordance with the manufacturers recommendations and industry best practice including appropriate backfill, inter-connections and tying and geotextile separation (filter cloth) to prevent backfill migration.
- 4.1.3 All areas requiring gabion wall installation shall be marked on site by the Engineer prior to installation and agreed with the contractor.

- 4.1.4** Where gabions are laid more than 1m in height, subsequent layers shall be offset 300mm.

5.0 TIMBER RETAINING WALLS

5.1 Installation

- 5.1.1** Timber retaining walls shall be installed in accordance with the design drawings to achieve minimum embedment depths, maximum heights and angles.
- 5.1.2** All timber retaining walls shall be fixed together with either galvanized bolts/washers or galvanized purlin screws. Nails shall not be used for fixing timbers.
- 5.1.3** All timbers shall comply with Section 3.3 Table 1 above

6.0 TIMBER CRIB WALLS

6.1 Installation

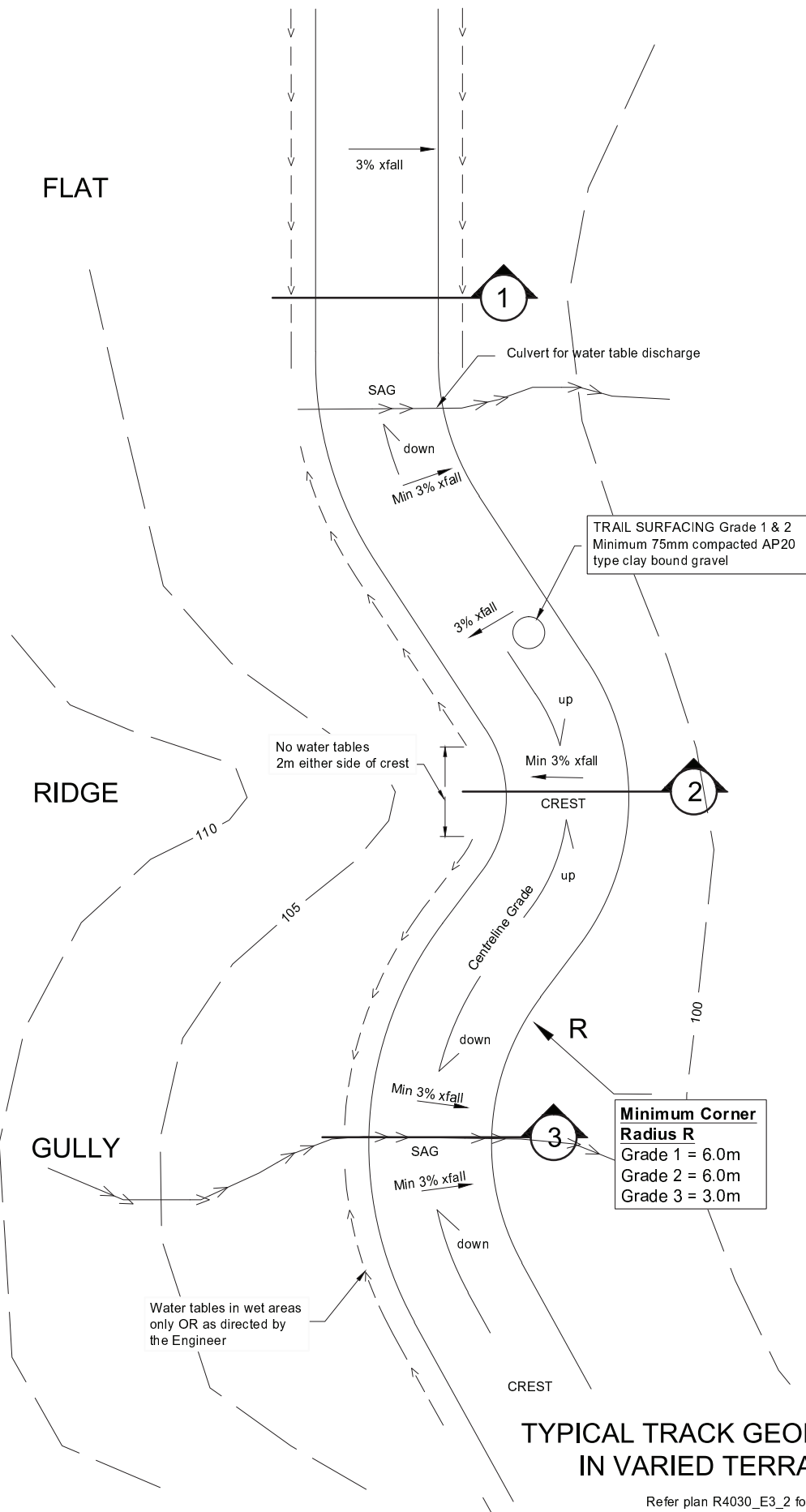
- 6.1.1** Crib walls shall be installed in accordance with the design drawings
- 6.1.2** All timber shall comply with Section 3.3 Table 1 above
- 6.1.3** Timber shall not be joined with nails. All timbers shall be either plated and bolted or plated and galv purlin screwed together to prevent breakage and splitting of timber.
- 6.1.4** The end and corners of such walls are to be protected with a minimum 100x50 timber running vertically to prevent end breakage.



7.0 Cattle Stops & Bollards

7.1 Design & Installation

- 7.1.1** Cattle stops shall generally be as per the typical detail plan Sheet R4030_E3_4. The cattle stops shall have a minimum trafficable width as per the required minimum structure width for the trail Grade to enable maintenance access.
- 7.1.2** Cattle stops shall have as a minimum a galvanized steel grate consisting of either rounds or flats sharp side up welded to a steel surround. Base and sides may be either timber or metal.
- 7.1.3** Cattle stops shall be installed at grade with the adjoining cycle trail and in line. Where restricting vehicle access is necessary, a timber bollard shall be installed in the centre of one approach and be of the lockable type.
- 7.1.4** A minimum 100mm flexible pipe shall be installed into the base of the cattle stop to enable hedgehogs to exit from the sump.
- 7.1.5** Bollards for use on QLDC trails shall be as per attached typical detail plan R4030_E??? and shall be installed in accordance with this plan. Bollards can be sourced from Milburn Fencers Ltd.



**TYPICAL TRACK GEOMETRY
IN VARIED TERRAIN**

Refer plan R4030_E3_2 for
typical cross sections



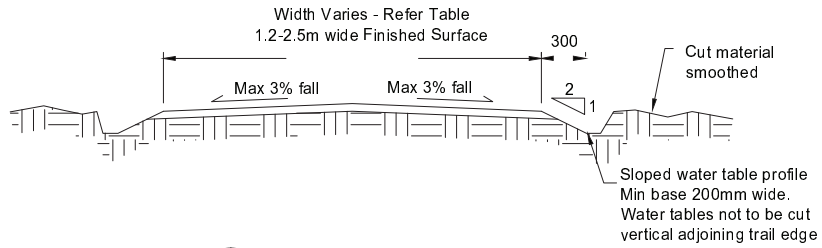
QUEENSTOWN LAKES DISTRICT COUNCIL	TITLE QLDC CYCLE TRAIL & TRACK TYPICAL DESIGN DETAILS			SCALE 1: 50 @ A4
	PREPARED FOR Queenstown Lakes District Council	SURVEYED TD	DATE 2015	DATUM & LEVEL N/A
	REVISION A - ORIGINAL ISSUE	DRAWN TD	DATE 8/2015	DRAWING REFERENCE R4030_E3_1
PREPARED BY Southern Land Ltd, Wanaka				REVISION A

Trail Design Width

- Grade 1 = 2.5m
- Grade 2 = 2.0 - 2.5m
- Grade 3 = 1.2 - 1.5m

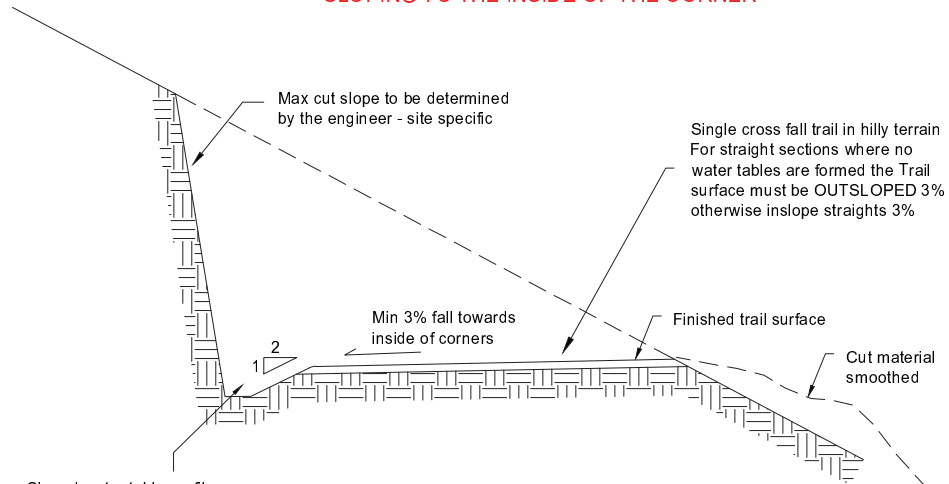
NOTES:

1. Minimum trail cross fall on corners = 3%
2. Trail should sag at gullies and crest at ridges to assist drainage
3. Use full cut bench where slope is >3:1; Use a combination of cut & fill where slope <3:1
4. Water tables, where used, shall be sloped and not vertically cut at the trail edge

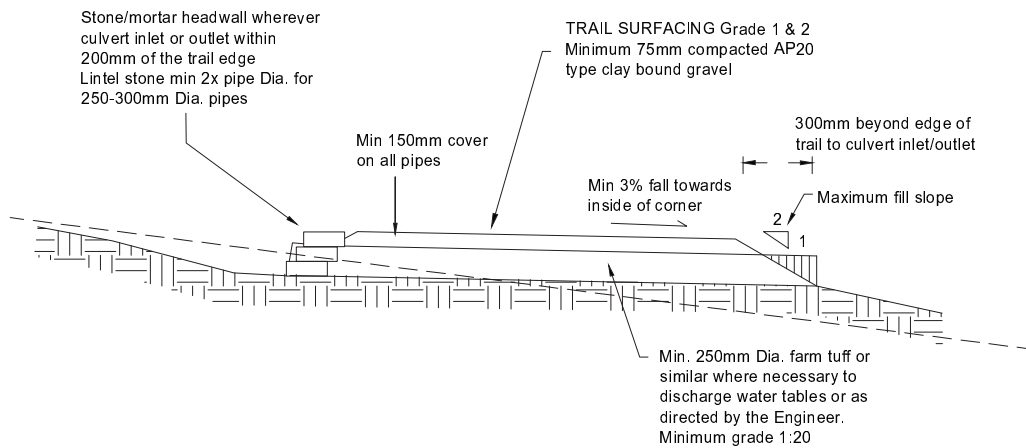


1 SINGLE CROSSFALL
1:50 USE IN FLAT COUNTRY

ALL CORNERS MUST BE FINISHED WITH SINGLE CROSS FALL SLOPING TO THE INSIDE OF THE CORNER



2 FULL CUT BENCH
1:50 USE WHERE CROSS SLOPE >3:1 (>18°)

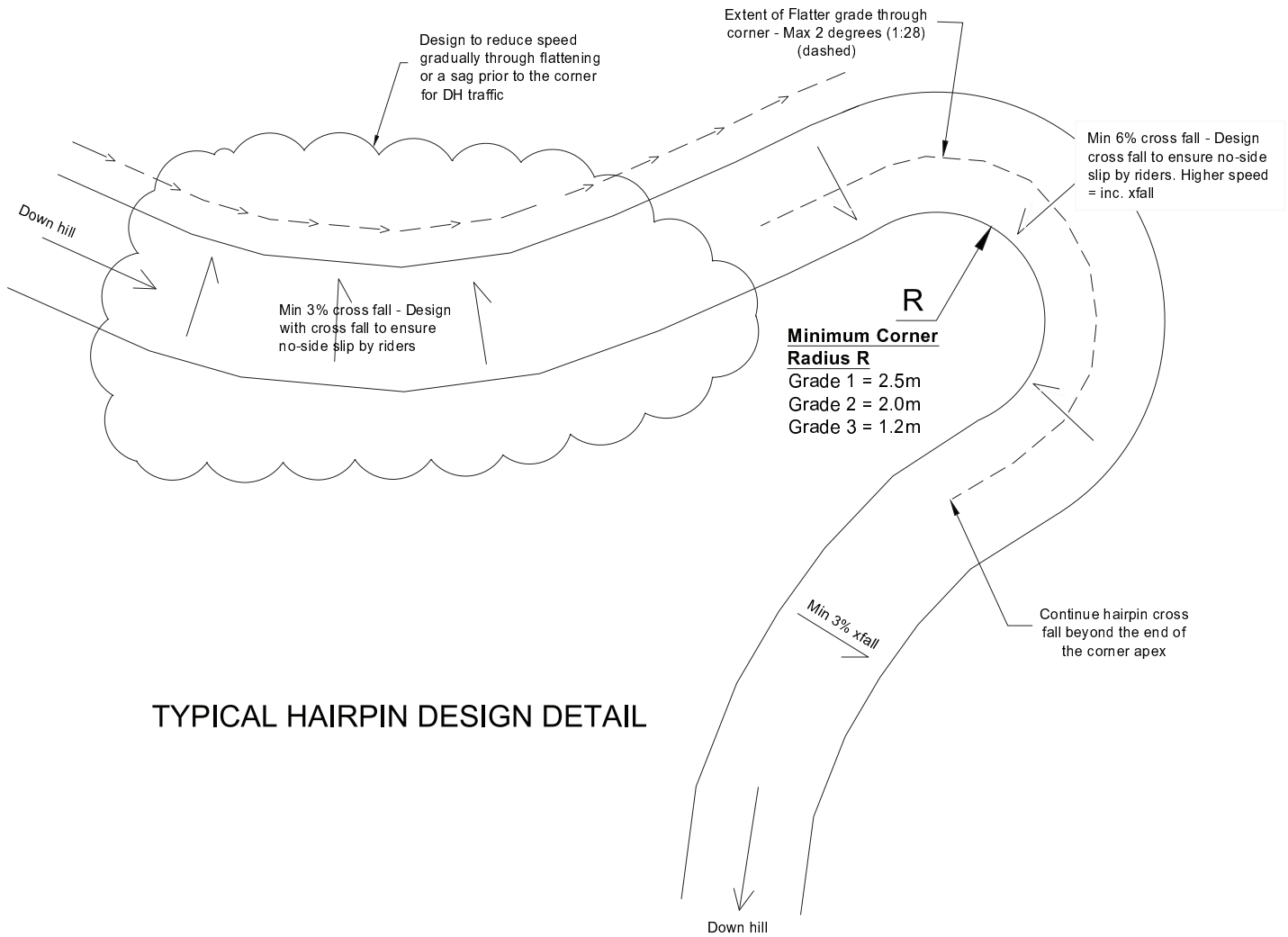


3 CUT & FILL
1:50 USE WHERE CROSS SLOPE < 3:1 (18°)

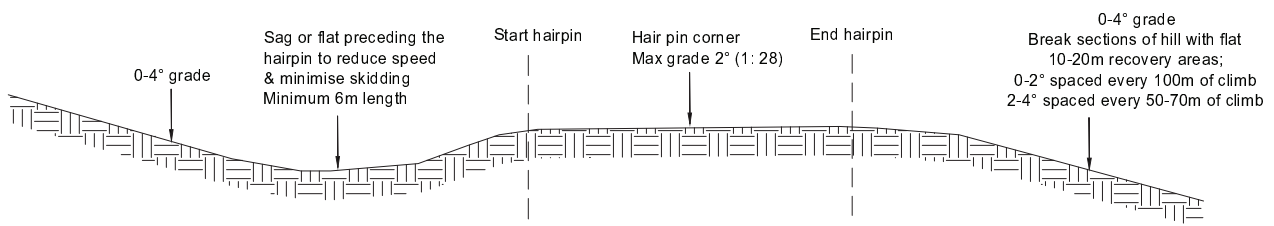
TYPICAL CROSS SECTIONS



<p>PREPARED BY Southern Land Ltd, Wanaka</p>	<p>TITLE QLDC CYCLE TRAIL & TRACK TYPICAL DESIGN DETAILS</p>			<p>SCALE 1: 50 @ A4</p>
	<p>PREPARED FOR Queenstown Lakes District Council</p>	<p>SURVEYED TD</p>	<p>DATE 2015</p>	<p>DATUM & LEVEL N/A</p>
	<p>REVISION A - ORIGINAL ISSUE</p>	<p>DRAWN TD</p>	<p>DATE 8/2015</p>	<p>DRAWING REFERENCE R4030_E3_2</p>
			<p>REVISION A</p>	



TYPICAL HAIRPIN DESIGN DETAIL



TYPICAL HAIRPIN LONG SECTION DETAIL



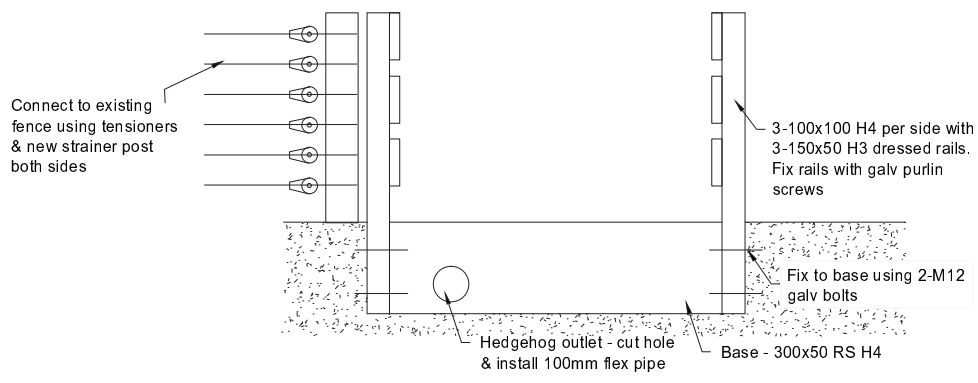
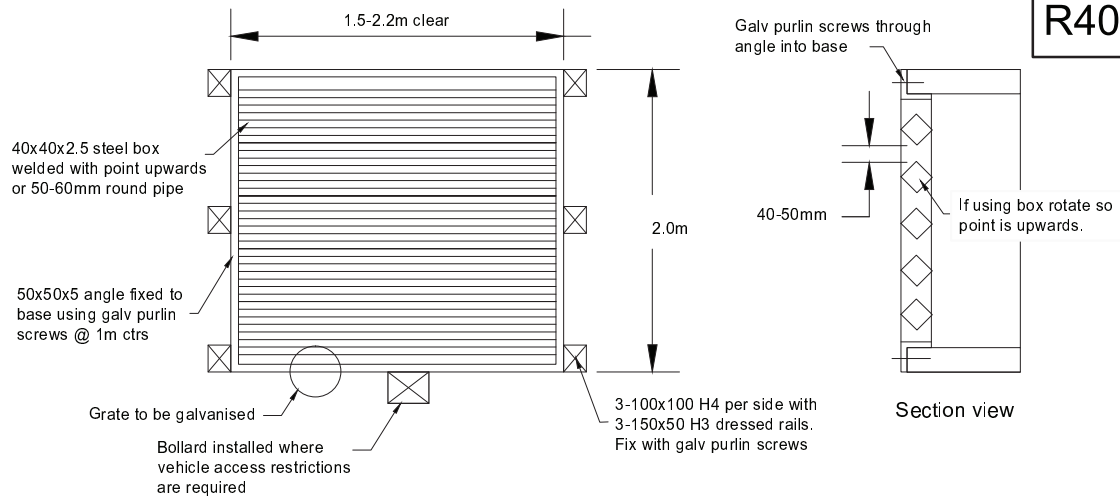
**QUEENSTOWN
LAKES DISTRICT
COUNCIL**

TITLE QLDC CYCLE TRAIL & TRACK TYPICAL DESIGN DETAILS			SCALE 1: 50 @ A4
PREPARED FOR Queenstown Lakes District Council	SURVEYED TD	DATE 2015	DATUM & LEVEL N/A
REVISION A - ORIGINAL ISSUE	DRAWN TD	DATE 8/2015	

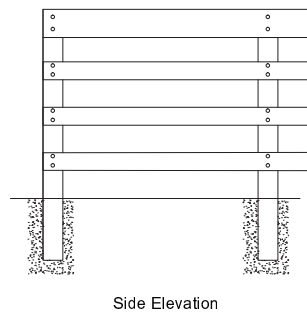
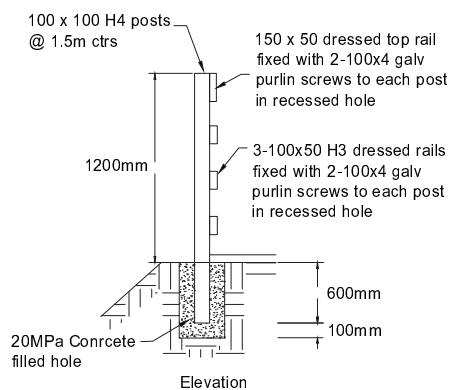
PREPARED BY
Southern Land Ltd, Wanaka

DRAWING REFERENCE
R4030_E3_3

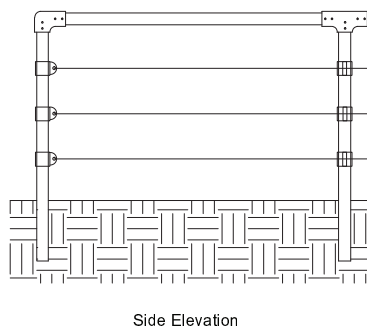
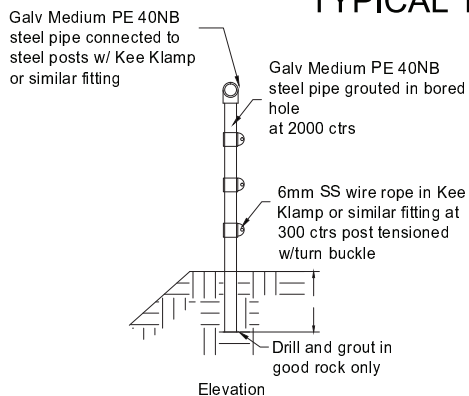
REVISION
A



CATTLE STOP



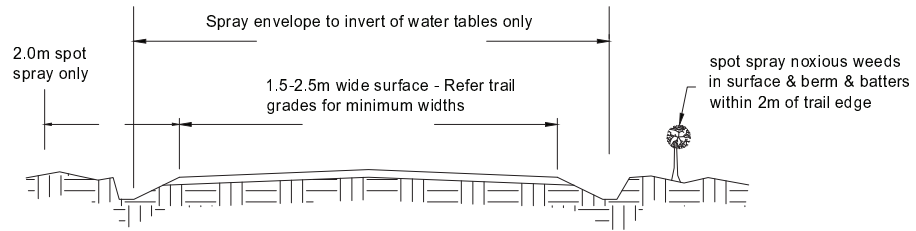
TYPICAL TIMBER FENCE IN SOIL



TYPICAL STEEL FENCE IN ROCK

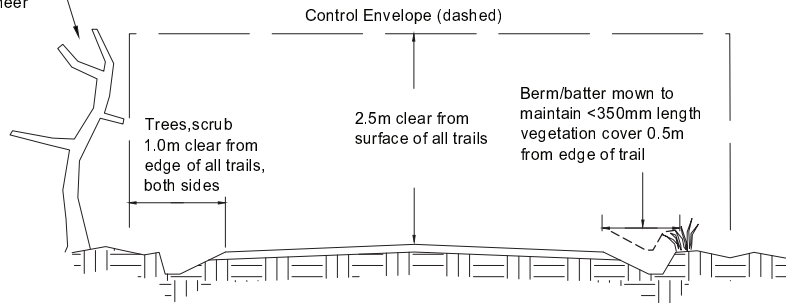


<p>TITLE</p> <p>QLDC CYCLE TRAIL & TRACK TYPICAL DESIGN DETAILS</p>			<p>SCALE</p> <p>1: 50 @ A4</p>
<p>PREPARED FOR</p> <p>Queenstown Lakes District Council</p>	<p>SURVEYED</p> <p>TD</p>	<p>DATE</p> <p>2015</p>	<p>DATUM & LEVEL</p> <p>N/A</p>
<p>REV: S ON</p> <p>A - ORIGINAL ISSUE</p>	<p>DRAWN</p> <p>TD</p>	<p>DATE</p> <p>8/2015</p>	<p>DRAWING REFERENCE</p> <p>R4030_E3_4</p>
<p>PREPARED BY</p> <p>Southern Land Ltd, Wanaka</p>			<p>REVIS ON</p> <p>A</p>

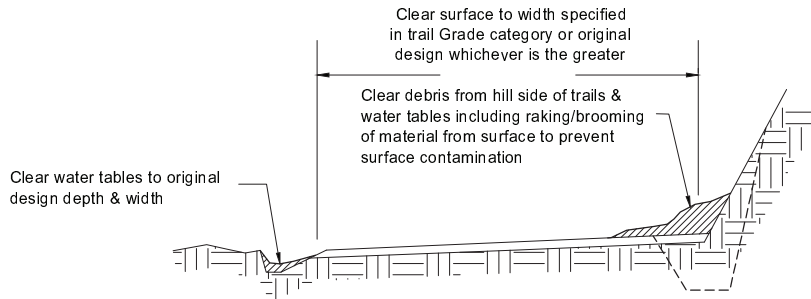


WEED SPRAYING ENVELOPE

Contractor may clear additional width to increase clearance interval with the approval of the Engineer



VEGETATION CONTROL ENVELOPE



DEBRIS CLEARANCE



	TITLE QLDC CYCLE TRAIL & TRACK TYPICAL MAINTENANCE DETAILS			SCALE 1: 50 @ A4
	PREPARED FOR Queenstown Lakes District Council	SURVEYED TD	DATE 2015	DATUM & LEVEL N/A
	REVISION A - ORIGINAL ISSUE	DRAWN TD	DATE 8/2015	DRAWING REFERENCE R4030_E3_5
PREPARED BY Southern Land Ltd, Wanaka				REVISION A

Appendix 6. Report from Dr Marion Read, Read Landscapes

To: V Jones, Vision Planning on behalf of Queenstown Lakes District Council
From: Marion Read, Landscape Architect
Subject: Proposed Plan Change 51, Peninsula Bay
Date: 7th June, 2016

1.0 Introduction

- 1.1 A private plan change proposal has been made to rezone a part of the Open Space Zone at Peninsula Bay, Wanaka, as Low Density Residential (LDR).
- 1.2 The proposed rezoning would allow for the development of an additional 26 residential lots of between 1040m² and 5490m². Lots 1 – 3, 7 – 12, 15 – 19 and 23 – 26 would have building areas defined by the setbacks of the LDR zone. Lots 4 – 6, 13 & 14, and 20 – 22 would have defined building platforms of between 600 and 700m².
- 1.3 Height limits above specified datum levels are prescribed for each lot.
- 1.4 Vegetation enhancement / mitigation planting is proposed.
- 1.5 The location of the proposed rezoning is along the northern margin of the Peninsula Bay LDR. It extends to the north into an area which is agreed, by the applicant, to be within the Outstanding Natural Landscape despite the area not being zoned Rural General.
- 1.6 This assessment is informed by the processes set out in the 'Guidelines for Landscape and Visual Impact Assessment'¹ and by the 'Landscape Assessment and Sustainable Management'² practice note of the New Zealand Institute of Landscape Architects.

2.0 Analysis of the Applicant's Landscape and Visual Assessment

- 2.1 A Landscape and Visual Effects Assessment Report undertaken by Mr B Espie of vivian+espie has been included in the application.

¹ The Landscape Institute & the Institute of Environmental Management & Assessment. (2013). Guidelines for Landscape and Visual Impact Assessment. Routledge: London.

² New Zealand Institute of Landscape Architects. (2010). Landscape Assessment and Sustainable Management. http://www.nzila.co.nz/media/53268/nzila_ldas_v3.pdf

- 2.2 Mr Espie details his positions during previous considerations of development in this area of the site. It appears that he supported development similar to that which is currently proposed in Variation 15 (rejected by the Environment Court in 2005) but opposed similar development in Variation 25 (amended and subsequently approved by QLDC in 2006).
- 2.3 At paragraphs 14 to 22 of his report Mr Espie describes the character of the landscape in the area in question. While I agree with his fundamental description I do not necessarily agree with his evaluative comments, and I discuss issues of landscape character below.
- 2.4 At paragraphs 23 – 27 Mr Espie describes the visibility of the subject site and its surrounding visual catchment. I agree with and adopt his description.
- 2.5 At paragraphs 28 to 30 Mr Espie describes the locations from which development as proposed would be visible. I agree with and adopt his description. I do note that he has not considered the potential visibility of development from the reserve lands or biking and walking track on the Dublin Bay side of the lake outlet.
- 2.6 At paragraphs 31 to 41 Mr Espie assesses the impact of the proposed LDR extension on the character of the landscape in the vicinity. I will provide my own assessment of the impacts of the proposal on the landscape character of the vicinity
- 2.7 At paragraphs 42 to 45 Mr Espie introduces his visual effects assessment. At paragraph 45 he states that views will be available from future dwellings to the north, but that these will not include the lake surface. He presumably bases this on the intention to plant kanuka and other indigenous vegetation to the north of the proposed lots. It is my opinion that it would be unreasonable to put much if any weight on the possible screening effects of this vegetation. It is well established that relying on vegetation as a screen between dwellings and a view, particularly one as striking as the views to the lake which can be obtained in this vicinity, is a fatuous exercise. I discuss this in detail below.
- 2.8 At paragraphs 46 to 49 Mr Espie opines that the effect on the visual amenity of residences in Infinity Drive, Bull Ridge and Edgewood Place would be adversely affected to a considerable degree. I agree with this assessment. Currently, in views to the north, these properties could expect to see a row of dwellings backed by the rounded ridge which currently encloses Peninsula Bay along its northern margin, and the distant mountains behind that. I consider it likely that an additional row of dwellings would obscure the natural landform from view and likely obscure parts of the more distant mountains also. These dwellings would break the ridgeline and skyline in many views from this northern part of Peninsula Bay. My **investigations suggest that Mr Espie's assertion that many of these properties are owned** by the requestor is no longer accurate, and I also note that the owners of these lots are prevented from submitting in opposition to this plan change proposal by covenant. I discuss this in detail below.

- 2.9 At paragraphs 50 to 57 Mr Espie discusses the visual effects of development within the proposed zone change area on the visual amenity of public and private views from Wanaka township and from the Millennium Track to Damper Bay. He considers the overall effect on views from these locations to be slight.
- 2.10 At paragraphs 58 to 60 Mr Espie discusses the visual effects of development within the proposed zone on the visual amenity of public views from the surface of the lake to the west of Beacon Point. He considers the overall effect of on views from this location to be slight also. I agree with him and adopt his evidence in this regard.
- 2.11 At paragraphs 61 to 63 Mr Espie discusses the visual effects of development within the proposed zone on the visual amenity of public views from the surface of the lake to the east of Beacon Point. He notes that minimal built form is visible from this part of the lake and that **the views of the land are susceptible to degradation with any 'significantly visible residential development' altering the 'natural, peaceful nature of the current views'**. He continues to discuss a series of visual simulations of buildings within the proposed area of development. He makes a number of assumptions about the sizes of future buildings; the effects of restricting the exterior cladding to a light reflectance value of less than 36%; and the effects of the proposed indigenous planting, none of which I agree with. On the basis of these **assumptions he concludes that the scale of visual change on existing views will change 'only very slightly'**. **I do not share his confidence**. I discuss these matters in detail below.
- 2.12 At paragraphs 64 to 76 Mr Espie considers the objectives and policies of the Operative District Plan (ODP). In my opinion this consideration is superficial and I will address them myself, below. In addition I will address the provisions of the Proposed District Plan (PDP).

3.0 Landscape Classification

- 3.1 The landscape classification of the subject site (the Peninsula Bay special zone and the Open Space zone together) was considered in the C10/2005 Environment Court case. This case considered two reference appeals on the then, partially operative, District Plan. It concerned the establishment of a special zone which was, eventually so established, the Peninsula Bay special zone.
- 3.2 The land concerned was zoned a mix of Rural L and Rural B under the Transitional District Plan and Rural General under the Partially Operative District Plan. This meant that a determination of the landscape classification of the site was a necessary part of the assessment of the appropriateness of the plan change proposal.
- 3.3 The Court in this instance heard evidence from three landscape architects regarding the landscape classification of the site. Mr Miskell, whose opinion that the site was part of the urban landscape of Wanaka was discounted; Mr Espie, who contended that the site was predominantly Visual Amenity Landscape which met with an Outstanding Natural Landscape at

some point to the north, but who did not identify where this meeting occurred; and Ms Lucas, who opined that the northern slopes of the site, from the ridgeline to the lake, were part of the Outstanding Natural Landscape of Lake Wanaka. The Court agreed with Ms Lucas. No consideration was given to the land to either side of the site, the Penrith Park zone to the **west or the 'Sticky Forest' block to the east.** No map was appended to the decision. Variation 15 was overturned by the Court.

3.4 **Subsequent to the Court's determination on Variation 15, Council itself proposed Variation 25.**

This variation promoted a new subdivision for Peninsula Bay taking into account the Court's decision. That is, development promoted in Variation 15 for Areas 2 and 5, the eastern and the northern margins of the site, was removed from the proposal. An entirely new zone, the Open Space zone, was promoted as a means to manage these areas, and the significant meltwater channels which cross the larger area of the site. This zone has as its **purpose** 'to protect landscape values, natural character and informal open space of the area'³. The rules of this zone make earthworks, other than those required to build cycle and walk ways, a non-complying activity, and prohibits the construction of residential units, residential flats and accessory buildings; airports; visitor accommodation; commercial buildings; telecommunication facilities; farm buildings; planting of any wilding tree species; and vehicle access except in a few limited locations and circumstances. This is a higher level of protection than was provided by the Outstanding Natural Landscape classification of the northern portion of the site. Variation 25 was adopted and became operative in June 2007.

3.5 When Variation 25 became operative the Peninsula Bay land ceased to be a part of the Rural General zone. Consequently, in the terms of the QLDC ODP, the relevance of an ONL classification on the northern portion of the site was diminished. Under the ODP only Rural General land requires assessment as to its landscape quality. The area which the Court had accepted as ONL was entirely subsumed under the Open Space Zone which affords it greater protection from development than the rules of the Rural General Zone, and which incorporates a larger area than that identified as ONL in that case.

3.6 Plan Change 45 (North Lake) related to an area of Rural General zoned land to the east of the Peninsula Bay site, separated from it by the ridgeline property **known as 'Sticky Forest'.** As a part of the assessment of that plan change proposal I assessed the location of the boundary between the ONF of the Clutha River corridor and the ONL of the Clutha River outlet and the subject site. I determined that it ran along the ridgeline of a series of glacial hummocks in **the eastern part of the site, and then climbed to a high point on the 'Sticky Forest' ridgeline.** This plan change became operative in February of this year. An extensive no-build zone has been designated along the northern boundary of the site to ensure that development does not encroach into the ONF and ONL, either physically or visually.

³ ODP P20-1

3.7 The Outstanding Natural Landscape

- 3.7.1 As a part of the District Plan Review process I undertook a project for QLDC to determine the locations of the boundaries between ONLs and ONFs and other landscape classifications, generally Visual Amenity Landscapes. This required me to determine the location of the **boundary between the ONL of Lake Wanaka and the northern end of the 'Sticky Forest' ridgeline**. As the boundary which I had drawn for the North Lake assessment ended at the **boundary of the 'Sticky Forest' site** it was necessary to trace its route across that property. The subsequent location was reviewed by Wanaka landscape architect Anne Steven who recommended some changes to its location which were adopted. This line meets the boundary of the Peninsula Bay zone approximately 570m south along its eastern boundary. This contrasts with the boundary promoted by the applicant (from the Variation 25 case) which meets the same boundary approximately 75m from the southern boundary of the zone.
- 3.7.2 The area adjacent to the eastern boundary of the Peninsula Bay zone is Open Space zone. The Open Space zone, in the more northern reaches of the Peninsula Bay area, has all of the qualities of the ONL to its north, and is of superior quality to the ONL located within **the 'Sticky Forest' block**. **Consequently the boundary was drawn through the Open Space Zone** to the east to capture a large stand of kanuka and then following the boundary of the Peninsula Bay zone across its northern extent. The ONL boundary follows the boundary between the Open Space zone and the Beacon Point zone **and while it appears on Council's GIS map as** approximately 25m to the east of the boundary it was intended to follow the boundary with the Beacon Point zone. This is an error which was not identified prior to notification. The ONL boundary meets up with the Rural General zone at the north western corner of the Open Space zone and the north eastern corner of the Beacon Point zone. The Penrith Park zone is excluded because its zoning anticipates relatively dense residential development.
- 3.7.3 All of the land included within the ONL is of the same character and quality as that of the more northern parts which are visible from the lake. The exception to this would be areas at the western end of the area around Bull Ridge where fill has been deposited within the Open Space Zone. The north eastern corner of the site is a highly legible and natural basin located within a notable meltwater channel which descends to the lake to the north east. It is not, in my opinion, defensible to exclude this from the ONL.
- 3.8 It is to be noted that landscape classification of the Open Space zone is not a requirement of the ODP but as the protections of this zone are stronger than those afforded Rural General land which is considered to be a part of the ONL this is not problematic. The RMA, however, requires the protection of outstanding natural landscapes from inappropriate subdivision, use and development regardless of plan rules. Consequently, it is my opinion that all of the plan change 51 area is located within the Outstanding Natural Landscape regardless of its zoning and must be assessed accordingly in the terms of the ODP.

4.0 Landscape Character Assessment

- 4.1 Landscape 'reflects the cumulative effects of physical and cultural processes'⁴. The varying combinations of these things along with the natural processes at work in the environment, and their spatial distributions create the character of landscapes which identify different places. This character also includes the aesthetic, perceptual and experiential aspects of landscape which contribute to the sense of place.⁵ In this sense landscape is a resource in its own right, and an adverse effect on landscape character is one which alters or disrupts a valued character weakening its uniqueness and / or the associated sense of place.
- 4.2 The landscape character effects of the proposed plan change need to be considered from three perspectives. Firstly, the effects need to be considered on a wide scale encompassing the Lake Wanaka moraine as a landscape feature in its own right. Secondly, the effects need to be considered in terms of the contribution of the proposed plan change area to the character of the Peninsula Bay urban areas. Finally, the effects need to be considered in terms of the outlet of the lake, which is also a distinct feature in its own right.
- 4.3 The Wanaka moraine
- 4.3.1 As noted by Mr Espie, the Peninsula Bay subdivision and the subject site are located on the northern portion of the moraine landform which runs in a horseshoe shape around Roys Bay and Beacon Point. This landform actually extends further to the north east until it meets the roche moutonnee of Mount Brown, but is breached by the lake outlet to the north east of the subject site.
- 4.3.2 From a geological perspective, there are two parts to the moraine. The older is located on the **outer, eastern part of the moraine and encompasses the 'Sticky Forest' ridge and the higher lands** to the east of Dublin Bay. The second part is of newer material and this extends through the Peninsula Bay area and includes the elevated areas between Anderson Heights and Eely Point, the Wanaka Golf Course and extends to the south and west under the Willow Ridge land to the south of Roys Bay. It is also forms the lower terraces within Dublin Bay. To the east of this area are lacustrine deposits. This is illustrated in the map below which has been taken from the 2005 Boffa Miskell Landscape Assessment report which was undertaken for the original Variation 15. I understand that this map was produced by Cromwell geologist R Thomson. I do note that it conflicts slightly with the GNS Map of the areas which shows a schistose landform (Larch Hill) between the morainic material and the western side of Roys Bay.

⁴ <http://www.nzila.co.nz/> downloaded 22 May 2016.

⁵ Guidelines for Landscape and Visual Assessment Impact Assessment, op cit. P21.



FIGURE 2
Zone and Moraine Plan

1:25 000 (A3)

4.3.3 The Wanaka moraine is a distinctive feature of the landscape, enclosing the (current and historic) town centre and contributing to its small town feel. Much of the most elevated areas of the moraine are free of built form being the location of the golf course and Lismore Park and the more distant 'Sticky Forest' ridge. Open areas are also currently present on the moraine to the south of Roys Bay. The two reserves, the golf course and Lismore Park, are the only areas of the moraine which have their open area protected (by their reserve status). The southern areas are subject to Low Density Residential and Rural Lifestyle zoning currently and under the current Plan review more of the area is expected to be zoned Low Density Residential. **The 'Sticky Forest' ridge, the highest and most visually prominent part of the moraine is clad in Douglas fir, and currently zoned Rural General.** This land is currently in the management of the Office of Treaty Settlements, and a submission has been made in the current District Plan Review to rezone it Low Density Residential (Submitter 149). **The moraine landforms of Dublin Bay** have been modified by agriculture, residential development, and the spread of wilding conifers.

4.3.4 As a consequence of various forms of human intervention (urban development, horticulture, agriculture, forestry) the Wanaka moraine as a landscape feature has been modified and rendered less legible and less natural as a result. The portion of the moraine to which this plan change proposal applies is a very small part of the overall feature. It does, however, retain a high level of natural character, both in terms of its landforms and its vegetation. The proposed residential development within the proposed plan change area would significantly diminish the natural character of this area. Earthworks would be necessary to create access ways and to establish building platforms. These would reduce the legibility of the landform. Indigenous vegetation (albeit regenerating) would be removed and structures introduced into an area in which they are currently absent.

4.3.5 It is the case that these identified effects would be very limited in scale and scope in terms of the entire moraine as a landscape feature. Further, there is some remaining opportunity for the moraine within Dublin Bay to be rehabilitated in terms of its natural character. It would, however, remain the case that the plan change area is the last remaining portion of the moraine which retains its natural landforms; retains extensive indigenous vegetation and, under the current planning regime, is afforded a high level of protection. I consider that this increases the importance of this area and thus the extent of the adverse effects of the proposed plan change on the moraine feature as a whole from inconsequential to significant.

4.4 Peninsula Bay

4.4.1 The Peninsula Bay urban area has a vibrant and colourful character. This character has been established, predominantly, through the design of the subdivision and as a result of the high standard of the design of the majority of the dwellings and other buildings, and their landscaping. The subdivision relates to its location on the Wanaka moraine through the maintenance of a meltwater channel as open space, and as a part of the stormwater management system, although this has been domesticated by the introduction of weirs and exotic tree planting. The higher land to the east has been retained as open space providing a buffer between the residential development within the zone and the undeveloped and visually prominent **'Sticky Forest' ridge. The northern glacial hummocks have been protected as open space** also, and the both this area and parts of the western boundary are clad with regenerating indigenous vegetation. These areas provide a natural context for the subdivision and trails provide ready access enabling residents to utilise these areas for recreation. They provide a sense that the area is located on the edge of town and that nature is just on the doorstep.

4.4.2 The proposed plan change would extend the area subject to residential development to the north. It can be reasonably anticipated, in my opinion, that standard of building design would be at least commensurate with that evident in the rest of the subdivision. Consequently it could be anticipated that the proposed plan change would extend the area of the vibrant and colourful urban character further to the north. It would, however, require the extensive

modification of the glacial hummocks at the northern part of the subdivision, both in terms of the earthworks required to establish residential development and in terms of the indigenous vegetation which is currently evident on the hummocks. Dwellings on proposed Lots 7 to 12 and 14 to 19 would substantially obscure the natural landform behind them from view and this, combined with the additional row of elevated dwellings (Lots 20 to 22) would diminish the sense of being contained within a natural landscape. It would divorce the built up area from its natural context and this would have an adverse effect on the character and quality of the broader Peninsula Bay urban area. In my opinion the extent of this effect would be moderate.

4.5 The Lake Wanaka outlet

4.5.1 The third area which needs to be considered is the Lake Wanaka outlet. This is the only remaining natural outlet of a major lake in the South Island, all others having been modified by some sort of control mechanism. While wilding conifers and briar are reasonably prevalent, particularly on the northern side of the outlet, most of the vegetation present along both sides of the water is indigenous. The natural character of the area is high however, although it is modified by the presence of the Outlet Motorcamp with its small scale buildings, earthworks, powerlines and the temporary effects of campers and their accoutrements. The development of the most northerly sites in Mount Gold Place in the Penrith Park, particularly number 57, will also detract from the natural character of this part of the landscape. In addition a lodge complex was consented by QLDC and the consent confirmed by the Environment Court in 2007 within Lot 1 DP 26282 on the northern side of the Outlet. This has not been constructed, and I am unsure if the consent has lapsed or not, but the construction of this lodge would be an additional modification to the character of the landscape in the vicinity of the lake outlet, and would detract from the natural character of the vicinity.

4.5.2 The proposed plan change would facilitate the development for residential use of a part of the Outlet landscape. Arguably Lots 1 to 3 and 7 to 12 are outside of this landscape character area. Lots 4 to 6 and 13 to 26 are within this character area. The construction of dwellings and the associated earthworks would have an adverse effect on the character of the outlet landscape, reducing its natural character. It is proposed to plant vegetation within the proposed lots along the ridgeline and to the north of the proposed building platforms. While the species range may be appropriate in terms of the prehuman vegetation which would likely have been found on the site, and the reintroduction of a complex of species would introduce a seed source allowing the spread of these species, the species range is, in the main, quite different to the existing indigenous vegetation within the outlet landscape. This plus its distribution (along lot boundaries and the ridgeline) does not imitate natural distribution patterns and would introduce unnatural patterns resulting in an alteration of the landscape character and a degradation of its quality. Further, there are no restrictions proposed on the

planting of exotic vegetation within the proposed lots and the planting of exotic trees and shrubs in this location would result in a significant change in the character of the landscape.

4.6 Discussion and conclusion

4.6.1 The site of the proposed plan change is a small portion of the Wanaka moraine, but the last remaining portion of it which has high natural character, is readily legible, and which is protected as open space. This makes it an area of high value in terms of the ongoing protection of its landscape character.

4.6.2 The proposed plan change would allow for the undertaking of earthworks and the construction of twenty six dwellings within this protected area. The effect of this development on the moraine as a whole would be very small as the majority of it has already been dramatically modified by urban development and urban type land management. The effect on this remnant, however, would be very significant and adverse, diminishing the natural character and legibility of this feature.

4.6.3 Currently the Peninsula Bay subdivision is contained to the east, west and north by the Open Space zone. To the north and east these areas are elevated and clad predominantly with kanuka and grasses. This provides character to the subdivision contributing to its sense of place. Allowing residential development to climb up and over the containing landform to the north would result in a diminishment of this sense of containment and of it being a special place. This would be an adverse effect of moderate extent.

4.6.4 The Wanaka lake outlet is the last remaining unmodified outlet from a major lake in the South Island. The lake and the surrounding landscape have high natural character. The proposed development would result in the modification of the landforms and the construction of dwellings within the landscape unit, and with this the accoutrements of living including exotic vegetation. This development would have a significant adverse effect on the natural character and broader landscape character of the lake outlet.

5.0 Visual Effects Assessment

5.1 Visual effects relate to the effects of a proposed development on views and scenery. Views provide visual amenity to people, both from private locations and public places. Consequently, adverse visual effects are those effects which alter a valued view in a way which would diminish the visual amenity which people would gain from that view⁶.

5.2 While some (temporary) modifications are present within the proposed plan change area (the plies of fill located at the western end of the site) the area has very high natural character. It provides a highly natural backdrop to the urban development within Peninsula Bay. It provides high visual (and other) amenity to users of the open space who can gain views to the

⁶ Guidelines for Landscape and Visual Impact Assessment, op cit. P21.

lake and mountains from within it which experiencing a highly natural context. Its highly natural appearance also provides high visual amenity to users of the lake and members of the public using the biking and walking track from Dublin Bay.

5.3 As noted above, I am in agreement with Mr Espie with regard to most of the more distant locations from which proposed development within the subject site could be viewed. This is particularly the case with regard to locations to the south and west of the subject site. I am not in agreement with him with regard to the visual amenity effects of the proposed development for persons in public and private locations within Peninsula Bay and adjacent lots in Penrith Park. In addition Mr Espie has not assessed the visual effects on the reserve land and walking/biking track on the north side of the outlet.

5.4 Visual effects on Peninsula Bay

5.4.1 The visual catchment from within which views of the proposed development would be possible from within Peninsula Bay would be limited to areas to the north of the low ridgeline between Minaret Ridge, Infinity Drive and elevated lots in Edgewood Place. This area is currently under development. This area is illustrated in Appendix 1 attached to this report.

5.4.2 Views to the subject area from elevated lots on the low ridgeline will be obscured to a reasonably extensive degree by anticipated intervening development. Glimpses of the subject area would still be possible between dwellings, down driveways, and down Avalanche Place. The northern ridge provides a natural backdrop and sense of containment to the urban development which would contribute to the visual amenity of people in the area. Anticipated dwellings on the most westerly seven lots in Infinity Drive, on its northern side, would likely obscure most of the open grassy ridgeline from view. It would still be visible, however, as open space between these dwellings. The inclusion of dwellings on Lots 7 – 12 would eliminate much of this natural backdrop from the view of persons in the vicinity of Avalanche Place. Lots 10 to 12 are steep enough to possibly contain a two story dwelling within the height plane which would exacerbate this effect. Views of the more easterly part of the subject area down Avalanche Place are currently of a single row of dwellings backed by the ridge clad with kanuka. This offers high amenity in these views. The proposed development would result in two dwellings being located on the ridge above and behind the anticipated development in Infinity Drive. While indigenous planting is proposed to the west of these lots, and to the south of Lot 20, the species mix is radically different to the species mix currently present on the site and it would have its own adverse visual effects, highlighting the boundaries of these lots. I consider the inclusion of these lots, 7 to 12 would have an adverse effect on the visual amenity of the existing lots on the ridge which would be adverse and moderately significant in extent. (Note: I consider the planting proposed on the site in a separate section below).

- 5.4.3 Dwellings at numbers 5 to 11 Edgewood Place, and 3 and 5 Diamond Lane currently (or will) have an uninterrupted view over a portion of the meltwater channel to the eastern part of the subject area. Currently this view is of a backdrop of the landform clad with, predominantly, kanuka. This provides high amenity to these views. Dwellings on Lots 23, 24, and 26 will interrupt these views, changing their character and diminishing the visual amenity of this outlook (which is to the north of these dwellings and likely highly valued) significantly. The dwelling at number 11 Edgewood Place will also be significantly affected by a dwelling on Lot 25 and I consider it to be adversely affected to a very significant degree.
- 5.4.4 Residents of the dwellings on the southern side of Infinity Drive will currently have or anticipate a view to the north over a single row of dwellings on the far side of the street. Numbers 64 to 74 Infinity Drive have a view over the lower, open and grassed, portion of the ridgeline to the Peninsula, a view of high amenity. The single row of dwellings which are anticipated under the existing Plan rules will diminish the quality of the current view to a degree, but should not impinge on the view of the Peninsula. A second row of more elevated dwellings behind them would impinge on the visibility of this landform, breaking the ridgeline behind. Further, the indigenous vegetation which it is proposed to plant along the top of the ridgeline would, if it were successful in getting established, further obscure the Peninsula from view. I consider this would be an adverse effect on the visual amenity of these residents of a small to moderate degree.
- 5.4.5 Residents of the dwellings at numbers 76 to 94 Infinity Drive currently have, or can anticipate, a view over dwellings on the far side of the street to a relatively high, natural ridgeline clad with regenerating kanuka. This ridgeline provides a backdrop for the dwellings in front of it, and a sense of containment for the existing subdivision and provides high amenity to the outlook from these dwellings. This view will be altered by the inclusion of four elevated dwellings (Lots 13, and 20 to 22) plus dwellings on Lots 14 to 19. A dwelling on Lot 26 would be visible from 94 Infinity Drive. I consider that this represents an adverse effect on the visual amenity possible from these lots and consider it to be an adverse effect of a significant degree.
- 5.4.6 Development of the lots on the northern side of Infinity Drive from Bull Ridge to the eastern extent of that road is occurring apace. Currently these lots have the Open Space Zone to their immediate north and as such are assured of a natural backdrop (although not necessarily privacy). It is my anticipation, born out by the configuration of the dwellings which have been or are in the process of construction, that dwellings and their outdoor living areas will be oriented to the north and west so as to make the most of the visual, and other, amenity of the open space areas and to gain the sun. I consider that this provides these lots very high visual, and other, amenity.
- 5.4.7 Under the proposed plan change all of these lots bar numbers 93, 95 and 97 Infinity Drive would have at least one unanticipated dwelling immediately to their north. In the case of

numbers 99 to 111 there would be two rows of dwellings elevated above them, although most of the upper row would likely be obscured from view by the lower. These elevated dwellings would likely produce a feeling of domination over the lower lots. Numbers 95 to 97 would have indigenous vegetation planted to their north and east which would mitigate the effect of dwellings on proposed Lots 13 and 14 being located to their north east. Numbers 101 to 111 would each have a vehicle access way running along their northern boundary and it is anticipated that, as lots 14 to 19 are relatively steep, two story dwellings are likely to be constructed, meaning that the dwellings on these existing lots are likely to lose their views of **open grassland and kanuka for someone's garage door. The effects on the visual amenity of** the western most lots in Infinity Drive would be similar, although the sense of domination would be much less, the proposed sites being much less steep at the western end of the ridgeline. As with numbers 101 to 111, these western lots would have a vehicle access way along their northern boundary and would lose their views to the north across open grassland **for views of their neighbour's garages. I consider the negative impact on the visual amenity** of all of the existing lots on the northern side of Infinity Drive except numbers 93, 95 and 97 to be very significant. I consider that there is a negative impact on these three lots also, but that the extent of it is moderately small.

5.4.8 Four existing lots are located to the west of Bull Ridge. Three of these, number 73 Infinity Drive and the two lots to its north and north west can currently gain an uninterrupted view of the Open Space zone. The visual quality of these views is, at this time, compromised by piles of fill and other construction debris. The removal of these and the restoration of the natural landforms is, I understand, a condition of their current presence.⁷ Once this area is rehabilitated then the two more northern lots would have an uninterrupted view to the north down another less significant melt water channel to the Peninsula and Mount Gold. Number 73 Infinity Drive currently has a view across Bull Ridge to the Open Space area to the open, grassed, western end of the moraine ridge.

5.4.9 Proposed Lots 1 to 4 and 7 would all impinge on the visual amenity of these existing lots. The two most northerly existing lots in Bull Ridge would have four new dwellings located immediately to their north. As the buildable area of these lots is quite large it is impossible to determine exactly the degree to which future dwellings would impinge on the views currently available, it is possible that the close view could be considerably diminished, and the distant view of Mount Gold diminished to a degree. Planting is proposed along the southern boundary of proposed Lot 3 and this too, if it were to gain adequate height to screen a dwelling on Lot 4 from view, would also impinge on the view of Mount Gold. I consider that this loss of visual amenity would be of a moderately significant degree.

5.5 Mount Gold Place

⁷ This statement is based on the verbal information from Mr Mike Botting, surveyor for the applicant. I have been unable to find any record of resource consents for these earthworks and so have been unable to determine the terms of any conditions.

- 5.5.1 Lots 108 to 111 DP 425 615 are located adjacent to the subject site in Mount Gold Place. They are elevated, to a degree above the proposed lots 1 to 4. It is proposed to plant kanuka along the adjoining boundary between proposed Lots 1 and 2 and existing Lots 108 and 109. As the existing lots in Mount Gold Place are oriented more to the north and west, I consider that this would provide adequate mitigation for any intrusion into their views to the east, and any consequent diminishment of their visual amenity.
- 5.6 Dublin Bay to Deans Bank Track
- 5.6.1 The subject site is visible, from the reserve land around the Dublin Bay peninsula from the walking/biking track located in that reserve and **from the lake's surface**.
- 5.6.2 As noted above, the outlet of Lake Wanaka is the last remaining unmodified outlet of a major lake in the South Island, possibly New Zealand. As a consequence I consider the maintenance of its character and the visual amenity it provides to be of high importance. There are a number of features in the landscape which currently detract from the visual amenity of the outlet and its vicinity. These include the Outlet Motor Camp with its buildings and powerlines, and glimpses of structures which are visible over the ridgeline. These include the chimney and some of the roofline of 11 Edgewood Place within Peninsula Bay. In addition the roofline of a dwelling in Mount Gold Place is visible, but hard to distinguish. (This roofline only became apparent to me when examining my high resolution photographs whereas the chimney of 11 Edgewood Place is clearly visible to the naked eye.) This is illustrated in the photographs included as Appendix 3. It is likely that a dwelling on Lot 57 Mount Gold Place would be more visible, but this site is, as yet, undeveloped. It is the case, however, that the experience of walking this track (or cycling) is one of a close association with nature and a sense that one is far from town.
- 5.6.3 The subject site is readily visible from approximately 1km of the outlet track from Dublin Bay. For approximately 200m of that track one height pole on each of Lots 4, 5 and 6 were visible at the time of my site visit. This means that dwellings on these platforms would likely be visible from this location. Because only one pole could be seen on each platform it is not possible to tell how much of a future dwelling could be visible (the other poles may simply be obscured by vegetation). In addition, because of the angle of the view, it is possible that three dwellings could be visible end on end. I consider that this would diminish the perceptual natural character of these views, and would adversely impact on the visual amenity of these views. The extent of these effects would be moderately small, however, the high sensitivity of the views and location mean that the cumulative effect of a further intrusion of built form into this area would be significant.
- 5.6.4 The degree of visibility of the dwelling at 11 Edgewood Place raises the concern that dwellings on proposed Lots 24, 25, and 26, and possibly 23, could be visible also. While they are to be located significantly lower than 11 Edgewood Place, and have the appearance of being tucked

behind the ridgeline, I am extremely concerned that once the kanuka on Lots 23 and 24 was cleared to enable construction on those lots that this would expose dwellings on Lots 25 and 26 to view from across the water. A height pole was erected on the highest corner of Lot 24 for my site visit, and this was not visible, however, the loss of the lower kanuka could open up the top of the meltwater channel to view. Should any more built form become visible in this location it would have a significant adverse effect on the visual amenity of views from this track.

5.7 The Lake surface

5.7.1 **I have undertaken a survey of the proposed development site from the Lake's surface.**

5.7.2 The landscape on the northern side of Beacon Point and in the vicinity of the Outlet has high perceptual natural character and high visual amenity. As noted above I consider the maintenance of this natural character and visual amenity to be of high importance as it is the last remaining natural outlet of a major lake in the South Island.

5.7.3 **Poles from Lots 5 and 6 were visible from the lake's surface, but not in conjunction with one another from the locations we considered.** The Lot 5 pole was visible in conjunction with development in Penrith Park, the Lot 6 pole with the Outlet Motorcamp. In both instances the natural character and visual amenity of the views were already compromised. The presence of two more visible dwellings would, however, represent a cumulative adverse effect. The extent of this effect could be exacerbated by the proposed lack of control over the hues to be used on the exterior cladding of these dwellings. The effect would vary in intensity depending on the angle of the sun (it was heavily overcast at the time of the site visit).

5.7.4 While we were unable to identify any further visible poles, the visual simulations included with the application note that dwellings on Lots 3, 4, 5, 6, 7, 11, 12, and 21 could be visible from the lake. This potential visibility is to be mitigated by the planting of vegetation, and this is discussed below.

5.7.8 Mr Espie opines that future buildings on the building platforms will not fill the entire building envelopes. While this might be the case there is actually nothing to prevent this from occurring or, alternatively for a smaller dwelling to be constructed with a long, narrow form occupying the full length of a platform. Either of these options would have a similar visual impact.

5.7.9 Mr Espie considers the restriction of colour reflectivity to less than 36% with no restriction on hue to be adequate to ensure buildings would be visually recessive and blend into the surrounding vegetation. A brief trawl through the Resene website shows that there are many colours available which might comply with the reflectivity limit but which are not in the least recessive. I have included a few examples in Appendix 4.

5.7.10 I agree with **Mr Espie's** statement that the proposed mixed indigenous vegetation would bolster the existing vegetation and reduce the areas of open grassland but the composition of the planting proposed would contrast significantly with the existing kanuka. It is my opinion that it would appear more as amenity planting than natural regeneration, particularly at its northern edge is to be linear, following the site boundaries. I do not agree with his claim that **it would 'increase the wild quality of these views'**.

5.7.11 I consider that the controls on development on these proposed sites are not adequate to ensure that an adverse effect on the visual amenity of lake users is avoided. If it were to be the case that eight large and potentially colourful dwellings were visible along the ridgeline from the lake, even if sequentially rather than in conjunction, that would have an adverse effect on that visual amenity of a small to moderate degree. This is moderated by the fact that the subject site contributes only a small part of the views available from a boat on the lake. The extension of visible built form from Penrith Park across the subject site would, however, have an adverse cumulative effect of a moderate to significant degree.

5.8 The Open Space zone

5.8.1 Approximately half of the Open space zone to the north of Peninsula Bay is proposed to remain following the proposed plan change. Some of the existing informal walkways would remain and it is intended to construct a more formal walking track as well. I understand that public access to all of the area will be ensured.

5.8.2 Currently the informal walking tracks are accessed from either Bull Ridge to the west or the end of Infinity Drive to the east. Using either access the urban area of Peninsula Bay is rapidly left behind. While access to the ridgetop and the southern side of the ridgeline where views into Peninsula Bay are possible are unimpeded, the tracks and desire-lines wend their way below the ridgeline along the north facing slopes. In this area primary views are through and over kanuka and other indigenous vegetation to the lake and the mountains to the north. They have high visual amenity. Views within the Open Space zone are also of very high visual amenity with few structures or indications of the residential development over the ridge being visible.

5.8.3 Proposed Lots 1 to 6 and 22 to 24 would impinge, to varying degrees, on the visual amenity which is available to users of the Open Space zone. Lots 23 and 24 would need to be cleared of the dense kanuka which currently covers them. It is likely that dwellings on these sites would be visible from parts of the eastern end of the existing informal trail. At the western end, access to the Open Space zone would be along an alley between Lots 4 and 5. Assuming that the planting proposed would obscure these dwellings from close view, the presence of the vegetation and the post and rail fence intended to edge the interface of all of the private lots and Open Space Zone would clearly indicate the private use of some of the area. While

the primary views to the lake would remain unchanged, the views available within the Open Space zone would be significantly altered. I consider the extent of this effect to be moderate.

Discussion and conclusion

- 5.8.1 The areas in which the proposed plan change could have an effect on visual amenity are within Peninsula Bay; within Penrith Park; the Lake Surface and the Dublin Bay to Deans Bank track. It is considered that the plan change area contributes significantly to the existing visual amenity of these areas.
- 5.8.2 The proposed development would have adverse effects on the visual amenity of members of the public and private residents in the northern parts of Peninsula Bay. The extent of these adverse effects is considered to range from small to very significant in degree.
- 5.8.3 The proposed development would not result in the diminishment of the visual amenity of adjacent properties in Mount Gold Place.
- 5.8.4 Parts of the proposed development on the northern side of the ridgeline would be visible from the Dublin Bay to Deans Bank track. This would have a moderately small adverse effect on these views in its own right, but when considered in conjunction with existing and consented development visible in Penrith Park the cumulative effect would be significant.
- 5.8.5 It is possible that the proposed development within the eastern corner of the site, within the meltwater channel, would be readily visible from the track when kanuka within the lots was cleared. This would have a significant and adverse effect on the visual amenity of track users. It would diminish the experience of being away from town and in a natural landscape.
- 5.8.6 The visual simulations provided with the application indicate that a total of eight of the **platforms could give rise to dwellings which were visible from the lake's surface. In some** cases these would be visible in conjunction with development within Penrith Park, in others with the Outlet Camping Ground. From some perspectives future dwellings could be visible sequentially and from others in groups. When visible in conjunction with existing development the issue becomes one of cumulative effects. The extent of these adverse effects is moderate.
- 5.8.7 The visual amenity which can currently be gained by users of the Open Space zone is very high. The location of dwellings on and to the north of the ridgeline would diminish this amenity.

6.0 Proposed mitigation planting and landscaping

- 6.1 Indigenous planting is proposed. This appears to have a number of intended purposes.
- 6.2 Planting for visual mitigation
- 6.2.1 Area RV E6⁸ appears intended to provide a vegetative backdrop to lots 7 to 12 which would otherwise break the ridgeline and, in some cases and from some views, the skyline. In addition this vegetation would provide a vegetative backdrop and a privacy screen to dwellings on Lots 5 and 6. While it might be effective in this regard, it would also obscure views to the Peninsula and Mount Gold which are currently available to existing lots and residences within Peninsula Bay.
- 6.2.2 Areas RV E2, E3, E4 and E5 appear to be intended to provide some screening of buildings on Lots 4, 5, and 6 in views from the north, and to provide privacy screening between the lots and between the lots and the open space zone to the north. It is my opinion that vegetation which inhibited views to the lake from Lots 5 and 6 (in particular) would be unlikely to be **maintained**. **"The linear boundaries of the planting would have adverse effects on the users** of the Open Space Zone and the contrast in vegetation types would make it clear that it was amenity planting.
- 6.2.3 Area RV E1 appears to be intended to provide privacy screening between Lots 3 and 4, and a vegetative backdrop to a dwelling on Lot 3. This would appear as amenity planting, but could be an effective screen between the lots.
- 6.2.4 Areas RV S2, S3, S4, S5 and S6 appear to be intended to provide a vegetative backdrop to buildings when viewed from the south, screening of buildings from the north, and privacy screening from the open space zone. This planting is within reasonably dense kanuka and would have a more natural appearance than some of the more western planting. It would be reasonably effective in increasing the density of the vegetation around the eastern lots providing privacy between these lots, but it would not provide any mitigation to the construction of buildings on Lots 20, 21, and 22 in views from the south.
- 6.2.5 RV S1 appears to be intended to provide some screening to the west of Lots 14, 13, and 20 to reduce their prominence in views from Infinity Drive and its environs. I consider this would be reasonably effective.
- 6.2.6 Area RV K appears to be intended to provide screening between dwellings on Lots 1 and 2 and the adjacent lots within Mount Gold Place to the west. This would be reasonably effective.

⁸ The area codes used in the text refer to those on the Landscape Concept plan dated 5 November 2015, Rev F, included in the plan change documents.

6.2.7 A small area of alpine grassland, RV A is also proposed for enhancement.

6.3 Planting for revegetation

6.3.1 A wide range of indigenous species are proposed for the revegetation/mitigation planting. I will **leave it up to Ms Palmer, Council's ecologist, to comment on the appropriateness of these** species in this location from an ecological perspective. I will discuss them from the point of view of landscape effects, and from the point of view of managing a revegetation project.

6.3.2 If one was intending to undertake to revegetate this site, being the Open Space zone to the north of Infinity Drive to the lake edge, there are a number approaches are possible, but the most likely, because of the level of exposure of the site, is to undertake a sequential planting programme. As the aim of revegetation is to effectively speed up (and manage) what would happen if nature was allowed to take its course, nature should be the guide. Consequently, the range of species chosen would be limited to those which are present on site plus further species which commonly exist alongside them. Species growing well in the location give an indication that further planting of the same species will succeed. Adding in associated species increases the complexity of the plant community and, in time, will produce the conditions necessary to establish further species, increasing complexity. On this site the most appropriate plant species would be largely restricted to grey shrub-land and grass species. Secondly, the planting distribution would be planned so as to take advantage of the moisture and shelter provided by existing vegetation and by the nature of the topography. This would mean that the initial planting would be undertaken within the shallow gullies which run down slope to the lake and on eastern and southern facing slopes. The open areas within the site are likely so because their more gentle terrain has facilitated heavier grazing in the past when the land was farmed. Any planting in the vicinity of these areas would be restricted to their margins. This approach would not only be most likely to be successful in terms of getting plants established, but it would build upon the natural patterns and topography of the site and would thus have a highly natural appearance.

6.3.3 While the majority of the species within the planting lists are arguably appropriate the larger tree species are most likely to have a significant effect on the character of the landscape of the site. While I would have thought the site far too dry for *Aristotelia serrata*, *Fuchsia excorticata* and *Hoheria glabra* these and the other larger trees (*Fuscospora cliffertioides*, *Fuscospora fusca*, *Plagianthus regius*) would alter the character of the landscape significantly, should they survive. In addition the leafier shrubs (*Griselinia littoralis*, *Hebe salicifolia*, *Phormium cookianum*, *Pseudopanax colensoi*) would also alter the character of the landscape, providing leafy green amongst the finer textured and browner kanuka. In my opinion the planting of all of these species would not necessarily enhance the natural character of the site (in terms of perceived natural character rather than ecological natural character). Rather they would have the appearance of amenity planting and not natural regeneration. This is in the main because of the location of the proposed planting.

6.3.4 The patterns of planting proposed are very different to what would be proposed if this were entirely a revegetation exercise. Area RV E6 would be indistinguishable from amenity planting being located along a ridgeline. While it would meet up with the naturally occurring kanuka at its eastern extent it would have an utterly different species composition and would contrast with, rather than complement, the existing vegetation. This would be true of the vegetation within areas RV E1 to E5 also. In these cases this vegetation would appear quite unnatural and somewhat arbitrary to users of the Open Space zone to its north. The planting proposed in areas RV S1 to S6 would have a much more natural appearance as it would be planted into reasonably dense vegetation which already exists. There are already taller trees protruding from within the kanuka in this part of the site, wilding conifers, and these give the sense of a landscape in transition. This would be continued by the proposed planting.

6.4 Planting for seed sources

6.4.1 In terms of the intention to aid the restoration of the site and to provide a diverse seed source I can see a number of problems with the proposal. A complex list of plant species has been provided for each area of the site, and planting densities of 1 plant per 1.5m² specified. Nowhere, however is the intended mix of species specified. It would be possible to plant only kanuka, for example (which is specified for all areas including the grassland), or any other single species, and technically be in compliance with the Landscape Concept and consequently the terms of the proposed covenant. Screening cannot be guaranteed for the same reason, and a diverse seed source may not eventuate if a diverse range of plants are not established in the first place.

6.5 Further problems arise from the Covenant, and from the proposed planting layout.

6.5.1 All of the proposed planting except for RV K is located within the proposed private lots. The covenant requires that it be undertaken prior to 224C certification meaning that it must be undertaken by the developer. It does not require the planting to be established, or any of the anticipated effects of the planting to have been achieved prior to the construction of dwellings.

6.5.2 While the planting is to be undertaken prior to 224C the maintenance of the planting is then the responsibility of the lot owners. There are fourteen lots with planting intended within them. This means that the effective establishment and ongoing maintenance falls to fourteen different owners. Differing levels of commitment could potentially lead to widely different outcomes. **The Landscape Concept states a need for 'deep irrigation for at least the first five years'. Without central management of this its effectiveness would be unpredictable at best.**

6.5.3 The covenant requires that any plant within the vegetation protection or vegetation enhancement areas which dies or fails to thrive is to be replaced by a species listed on the Landscape Concept. This is an inappropriate condition for a revegetation project which, if

extremely successful, would anticipate a failure rate of approximately 20% in the first year. Extremely dense planting is proposed with the intention that strong plants eventually overcome the weaker. This is reflected in the detail of the Landscape Concept which states that plants should be spaced at a maximum of 1 plant per 1.5m² **with a spacing of '1m² preferred to allow for inevitable mortality rates'.** This inherent contradiction would need resolution before confidence in the effectiveness of the planting as revegetation could be determined. Further, as the plants which die or become diseased only have to be replaced with plants from the plant lists, rather than with similar or the same species, there is the possibility of larger species being replaced with smaller, especially where shading or the possibility of gaining views provides motivation for altering the species mix. Technically this would comply with the covenant.

6.5.4 While, with the limitations discussed above, the covenant may prohibit the removal of any protected vegetation, I am extremely dubious that this would actually protect the vegetation to the north of Lots 5, and 6, in particular, and also that to the north of Lots 20, 21 and 22. The views currently possible from the building platforms on Lots 5 and 6 are illustrated in the stitched panoramas attached to this report as Appendix 5. I consider it utterly untenable that a future owner of Lot 6, in particular, is going to allow any vegetation, including the kanuka which is already there, to impinge on the access to this view. While lower vegetation within the planting area might comply with the covenant and allow for views over it to the lake, this would enable users of the Open Space zone direct visual access to the dwelling diminishing its privacy and having a significant adverse effect on the visual and other amenity of the Open Space users.

6.6 Fire risk mitigation

6.6.1 With regard to fire risk mitigation, I am familiar with the guidelines for the design of defensible space around dwellings. I consider that the proposal complies with these guidelines in the use of leafy native species in the vicinity of dwelling sites to reduce fire hazard, problems with the effectiveness of the covenant discussed above notwithstanding. I would make the point, however, that fire risk mitigation is only necessary if dwellings are constructed amongst flammable vegetation, and that the avoidance of this practice is likely to be the safest option.

6.7 Discussion and conclusion

6.7.1 Indigenous vegetation is proposed to be planted within fourteen of the proposed lots. It is intended to provide screening and to create artificial skylines and backdrops to residential development; to provide ecological benefit through the introduction of seed sources absent from the vicinity; and to mitigate fire risk. The planting is to be managed by covenant.

6.7.2 A number of problems with the planting and its management have been identified. The patterns of vegetation would appear unnatural, and the types of vegetation would contrast significantly with the existing vegetation in the vicinity. The covenant and the Landscape Concept for the planting contradict one another regarding the management of planting. There is nothing to prevent the planting of only one species from the planting list so the purported objectives of screening (by larger vegetation) and increasing the local seed diversity cannot be relied upon. The proposed planting would comply with the guidelines for the development of defensible space to mitigate fire risk. It could provide some privacy between proposed lots but would provide little mitigation of the proposed development from within Peninsula Bay.

7.0 Assessment against the objectives and policies of the Operative District Plan

Only those objectives and policies for which a landscape comment is appropriate have been included.

7.1 Chapter 4 District Wide Matters

Objective: Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Policies: 1 Future Development

(a) To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation.

7.1.1 **It is agreed between the applicant's landscape architect and myself** that landscape and visual amenity values of the Open Space zone are vulnerable to degradation within the area affected by the Plan Change Proposal. The effect of development on the landscape values of the site cannot be avoided, remedied or mitigated and would be permanent.

(b) To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.

7.1.2 The Peninsula Bay subdivision as it has been developed is within an area of the District with the ability to absorb development without detracting from landscape and visual amenity values. The proposed development area is an extension into an area which has little potential to absorb change without detracting from landscape and visual amenity values.

(c) To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.

7.1.3 The proposed subdivision and development would not harmonise with the local topography, particularly on the southern side of the ridgeline. It does propose to introduce a range of plant species and an array of planting which would not harmonise with the ecological systems on the site in terms of the species present or the patterns of distribution.

2 Outstanding Natural Landscapes (District-Wide/Greater Wakatipu)

(a) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.

7.1.4 The ONL is open in the sense of there being no buildings. This proposed development would not maintain the openness of the ONL.

(b) To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change.

7.1.5 This part of the ONL has little capacity to absorb change.

(c) To allow limited subdivision and development in those areas with higher potential to absorb change.

7.1.6 This is not a part of the ONL which has a higher potential to absorb change.

(d) To recognise and provide for the importance of protecting the naturalness and enhancing amenity values of views from public roads.

7.1.7 The naturalness of the ONL contributes to the visual amenity of users of Bull Ridge, Infinity Drive, Avalanche Place and Edgewood Place. This proposal would not protect the naturalness or enhance the visual amenity of these views and would, in fact, detract significantly from them.

6. Urban Development

(b) To discourage urban subdivision and development in the other outstanding natural landscapes (and features) and in the visual amenity landscapes of the district.

7.1.9 The proposal is for urban subdivision and development within one of the Districts ONLs.

(c) To avoid remedy and mitigate the adverse effects of urban subdivision and development where it does occur in the other outstanding natural landscapes of the district by:

- maintaining the open character of those outstanding natural landscapes which are open at the date this plan becomes operative;

7.1.10 This proposal does not maintain the open character of the ONL which I understand was open at the time the ODP became operative.

- ensuring that the subdivision and development does not sprawl along roads.

7.1.11 The proposed development would not sprawl along roads.

8. Avoiding Cumulative Degradation

In applying the policies above the Council's policy is:

(a) to ensure that the density of subdivision and development does not increase to a point where the benefits of further planting and building are outweighed by the adverse effect on landscape values of over domestication of the landscape.

7.1.12 The proposed development is to be mitigated by the planting of a wide range of indigenous species, few of which are currently present on the site. The planting would, in and of itself, have an adverse effect on the landscape character and visual amenity of the vicinity.

(b) to encourage comprehensive and sympathetic development of rural areas.

7.1.13 The proposed development is urban rather than rural in character and cannot be described as sympathetic within a rural area.

9. Structures

To preserve the visual coherence of:

(a) outstanding natural landscapes and features and visual amenity landscapes by:

- ***encouraging structures which are in harmony with the line and form of the landscape;***

7.1.14 Dwellings are to be restricted in height which would assist in encouraging them to be in harmony with the line and form of the landscape.

- ***avoiding, remedying or mitigating any adverse effects of structures on the skyline, ridges and prominent slopes and hilltops;***

7.1.15 Adverse effects of structures on the skyline, ridges and prominent slopes have not been avoided. The intention is to mitigate them with vegetation, however, the covenant is inadequate to ensure both that the planting achieves its stated intentions and that it would be retained in the long term.

- ***encouraging the colour of buildings and structures to complement the dominant colours in the landscape;***

7.1.16 It is intended to restrict the LRV but not the hue of exterior building colours. LRV alone cannot ensure that hues which would complement the dominant colours of the landscape would be chosen.

• *encouraging placement of structures in locations where they are in harmony with the landscape;*

7.1.17 The location of a number of building sites are such that the skyline would be breached by dwellings in some views. A further number of building sites are located such that they breach the ridgeline. It is intended that this should be mitigated by planting but the covenant proposed is inadequate to ensure either its adequate establishment or its ongoing maintenance. Most of the proposed development is not in harmony with the landscape.

• *promoting the use of local, natural materials in construction.*

7.1.18 Nothing has been included in the proposal to promote the use of local, natural materials in construction.

11. Forestry and Amenity Planting

Subject to policy 16, to maintain the existing character of openness in the relevant outstanding natural landscapes and features of the district by:

(a) encouraging forestry and amenity planting to be consistent with patterns, topography and ecology of the immediate landscape.

7.1.19 The revegetation planting has been designed with the intention of providing amenity (in terms of mitigating the effects of breaches of sky and ridgelines). It would not be consistent with the patterns, topography and ecology of the immediate landscape.

(b) encouraging planting to be located so that vegetation will not obstruct views from public roads and discouraging linear planting near boundaries of public roads.

7.1.20 Planting is located along lot boundaries but not adjacent to public roads, and would not obstruct views from public roads.

15. Retention of Existing Vegetation

To maintain the visual coherence of the landscape and to protect the existing levels of natural character by:

(a) Encouraging the retention of existing indigenous vegetation in gullies and along watercourses;

7.1.21 Kanuka would be removed from the meltwater channel at the eastern side of the site. Other indigenous vegetation in gullies on the site would be retained.

(b) Encouraging maintenance of tussock grass-lands and other nature ecosystems in outstanding natural landscapes.

7.1.22 While indigenous planting is proposed, more indigenous vegetation is to be removed.

7.2 Chapter 20 Open Space Zone

The objectives and policies of Chapter 20 remain of relevance as approximately half of the Open Space Zone at the northern end of the site is to remain.

Objective 1:

To protect and maintain natural ecological values and the open appearance of the Open Space Zone.

Policies:

1.1 By restricting the development of buildings and structures and ensuring that those that are built do not detract from the open character of the zone.

7.2.1 While the building facilitated by the proposed plan change would not be within the open space zone, it is my opinion that they would detract from the open character of the remaining part of the zone. Users of the zone would be confronted with visible dwellings, distinctive vegetation and by a post and rail fence delineating the boundary of the zone.

1.2 By protecting, and where appropriate enhancing, ecological values and indigenous vegetation.

7.2.2 Some enhancement of the ecological values and indigenous vegetation of the plan change area are proposed, and it is anticipated that these will have a longer term, positive effect on the Open Space zone. The proposed covenant is not adequate to guarantee the enhancement would be appropriate or sustained, however.

1.3 By protecting the open appearance of the zone.

7.2.3 The construction of dwellings, particularly those on proposed Lots 4, 5, 6, 20, 21, 22, 23, 24, 25, and 26 would impinge on the open appearance of the zone. Dwellings on these lots would be readily apparent to users of the Open Space zone and would diminish the open appearance of that zone.

7.3 Discussion and conclusion

7.3.1 The proposed plan change does not meet the District Wide objective of the ODP that subdivision, use and development be undertaken in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values. It does not meet the policies for future development, or for the management of the ONL. The proposal does not meet the policies regarding urban development in ONLs. It does not avoid cumulative degradation of the landscape.

7.3.2 The proposed plan change does not meet the Open Space Zone objective of protecting and maintaining the natural ecological values and the open appearance of the zone. It attempts to provide some enhancement of ecological values but the management of these is inadequate to provide confidence that the enhancement would actually occur. The inclusion of dwellings within the existing Open Space zone would diminish the openness of the remainder of the zone.

8.0 Conclusion

8.1 A private plan change is advanced to change the zoning of an area to the north of Peninsula Bay from Open Space zone to Low Density Residential.

8.2 The Open Space zoning provides the area with a high level of protection of the landscape character and quality and provides for public access. The process which established this zoning identified a part of the area concerned as ONL, and assessments since have extended the area so identified. Consequently all of the plan change area is considered to be Outstanding Natural Landscape.

8.3 The area of the proposed plan change has high natural character. It provides a concluding landform which contains the Peninsula Bay subdivision to its north. It is a part of the Wanaka moraine and as such is more highly legible and has higher natural character than any other remaining part of that landform. It is an important part of the landscape of the outlet of the lake which is the only remaining natural outlet of a major lake in the South Island. These factors contribute to the landscape importance of the site.

8.4 The proposed plan change would allow for the construction of twenty six dwellings within the plan change area which would include at least three which could be visible from the Dublin Bay – Deans Bank track and eight of which could be visible from the lake surface diminishing the natural character and visual amenity of the vicinity. The proposal would extend the urban form of Peninsula Bay up onto the northern ridgeline diminishing the visual amenity of public and private views in the vicinity and altering the character of the urban form from one which has a special relationship with its context to a more ordinary suburb.

8.5 Indigenous planting is proposed on fourteen of the proposed lots. This planting is anticipated to mitigate fire risk, mitigate the visual effects of buildings, and provide a diverse seed source. The planting is to be managed by individual lot owners, subsequent to planting, and this, and other aspects of the covenant which is intended to control it, are inadequate to ensure the stated outcomes are achieved.

Read Landscapes



**Marion Read
Principal**

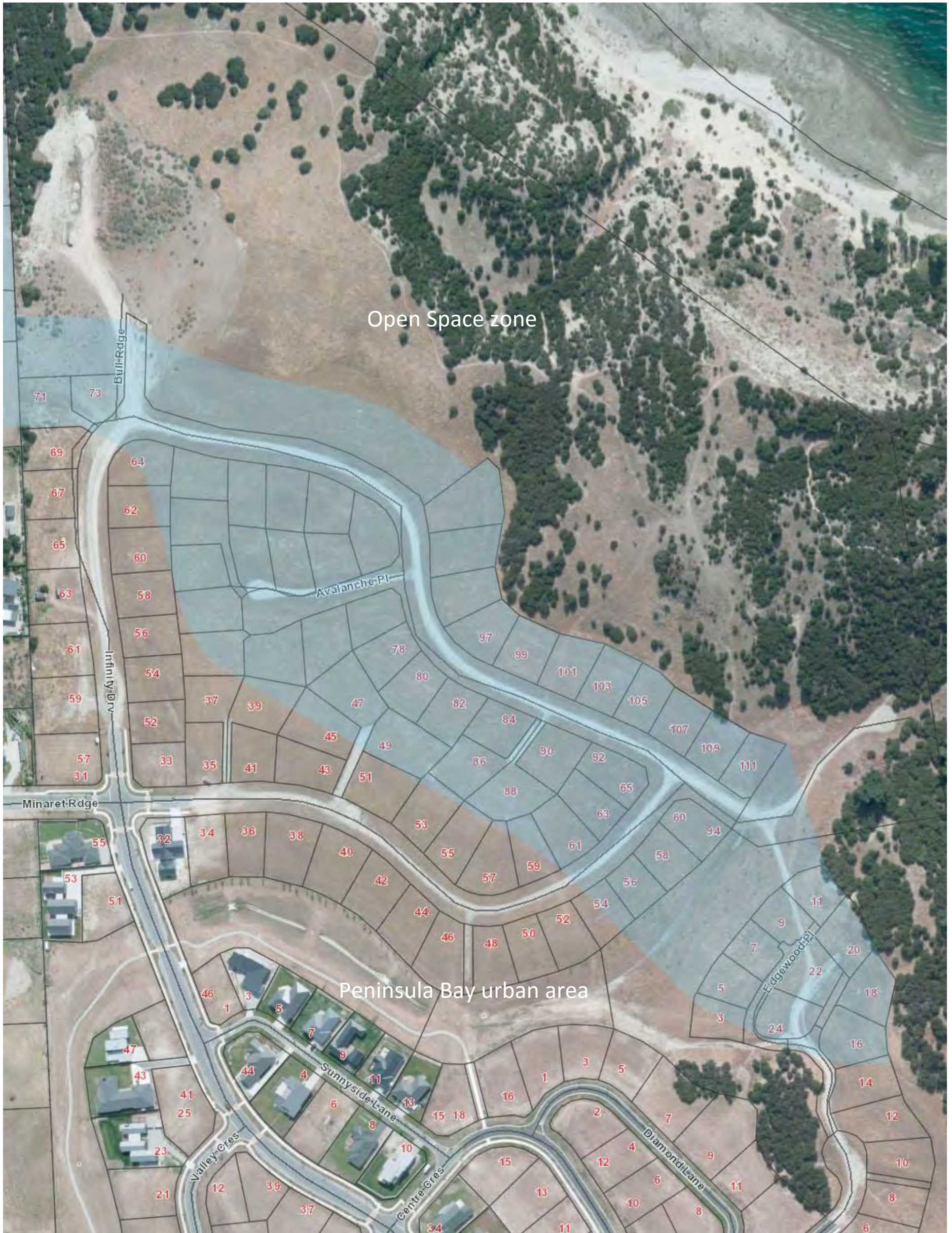


Fig: Aerial photograph from QLDC GIS mapping showing affected area referred to in the visual effects assessment in blue.

Appendix 1

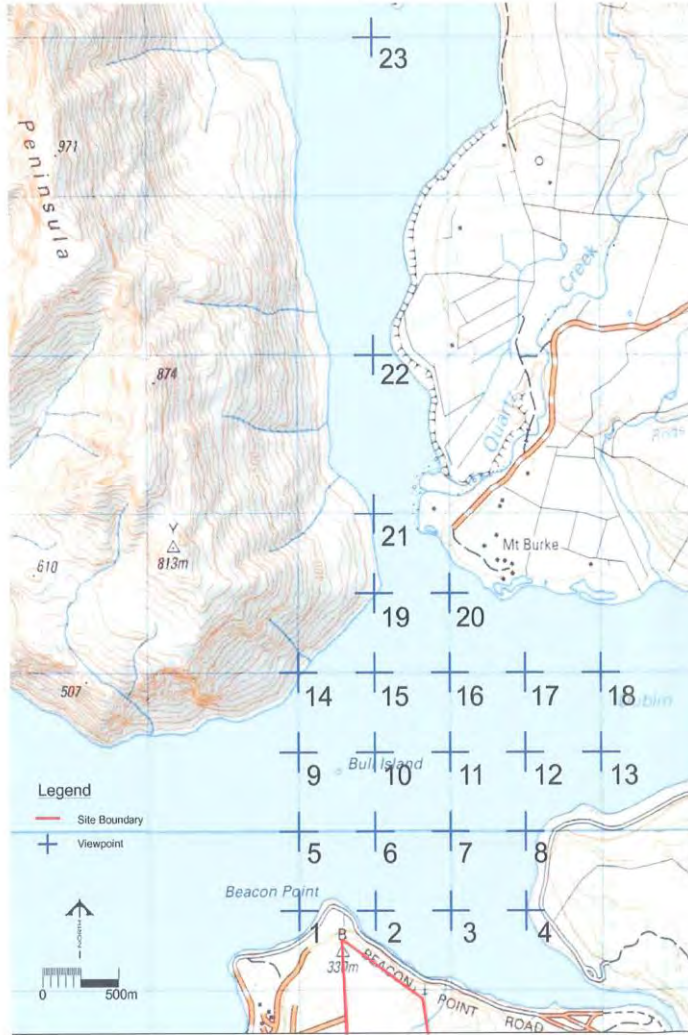


FIGURE 6 - PENINSULA BAY
Site Analysis - ZVI Viewpoints
28 September 2005
Scale - 1:25,000 (A4)



FIGURE 7 - PENINSULA BAY
Site Analysis - Zone of Visual Influence
from Lake Viewpoints
28 September 2005
Scale - 1:7,500 (A4)



Appendix 3:





Resene 'Adrenaline' LRV 33



Resene 'Affair' LRV 19



Resene 'Alibi' LRV 31



Resene 'Anchor' LRV 25



Resene 'Atoll' LRV 23



Resene 'Awol' LRV 32

Appendix 4:



Resene 'Ayers Rock' LRV 22



Resene 'Belladonna' LRV 12



Resene 'Blue Marguerite' LRV 25



Resene 'Big Bang' LRV 33



Resene 'Chateau Green' LRV 32



Resene 'Colour me Pink' LRV 15



Fig: Merged panorama taken from the Lot 5 building platform.



Fig: Merged panorama from the Lot 6 building platform.

Appendix 5:

Appendix 7. Evidence from Ms Dawn Palmer, Natural Solutions for Nature

**BEFORE THE INDEPENDENT COMMISSIONERS
OF THE
QUEENSTOWN LAKES DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act, 1991

AND

IN THE MATTER Peninsula Bay Joint Venture
Peninsula Bay North Plan Change 51

STATEMENT OF EVIDENCE OF DAWN PALMER

19 July 2016

1 INTRODUCTION

1. My name is Dawn Alice Palmer. I am an ecologist and have been practising in the integrated fields of conservation, ecology and natural resource management since 1985. I have lived in Queenstown, since 1993.
2. My qualifications are:
 - a) Bachelor of Applied Science – Ecology/ Natural Resources (1988)
 - b) Diploma of Applied Science – Natural Resources (1985)
3. I am a member of the New Zealand Ecological Society, New Zealand Plant Conservation Network and the Ornithological Society of New Zealand.
4. I established my own consultancy, Natural Solutions for Nature Ltd in 2002. As Principal ecologist, I have 29 years of practical experience in the applied science of ecology, conservation, restoration, natural resource and statutory land management processes.
5. **Prior to establishing my own consultancy, I worked for the Department of Conservation ("DOC")** between 1994 and 2001 where I managed the protected species/ biodiversity programmes, reviewed applications and prepared submissions for Resource Management Act, **1991 ('RMA')** and **Crown Pastoral Land Act, 1987 ('CPLA')** processes in the Wakatipu Area.
6. Before this I worked on a contract basis for the USDA Forest Service in Lake Tahoe, California as a wildlife technician and biologist (between 1990 – 1992) and between 1985 and 1988 I was engaged to undertake vegetation and wildlife surveying contracts for CSIRO in Canberra and the Department of Environment and Planning in South Australia.
7. I have undertaken many ecological assessments and/ or provided recommendations to mitigate or offset effects, and/ or enhance indigenous vegetation and biodiversity values. I have managed restoration projects over a range of scales, with a variety of goals including the reinstatement of indigenous vegetation, enhancement of existing vegetation and habitats, and bird translocation projects. This has included supervision of supply, plant and maintenance contracts for ecological restoration planting projects for sites of up to 40 hectares with establishment and maintenance phases spanning 3 to 10 years; and supervised landscape scale predator control programmes over more than 4,000 hectare sites including public conservation land and Motatapu Station.
8. I have provided expert evidence and affidavits for RMA processes including Councillor, Commissioner and Environment Court hearings, concession applications for Conservation Act processes, and ecological reports for Overseas Investment Office processes.

9. In 2002 I prepared an ecological assessment for Infinity Investment Group Ltd in relation to Variation 15, this assessment was updated in 2004 and submitted in evidence in 2005.
10. Although my evidence will be heard before independent commissioners for the Queenstown Lakes District Council, I confirm my evidence has been prepared in compliance with the Environment Court Practice Note (2014) rules relating to the Code of Conduct for Expert Witnesses and in providing this evidence I agree to comply with this.
11. I have not to my knowledge omitted to consider material facts that may alter or detract from the opinions expressed in my evidence.
12. In forming my opinions, I have relied on my own observations from site visits the on 8th and 22nd of June, 2016 and my previous ecological assessment. I have also undertaken a desk top **analysis of the site facilitated by Council's GIS and Google Earth Pro as well as other internet based resources** and compared these to the Peninsula Bay North Plan Change Terrestrial Ecology Assessment prepared by Mitchell Partnerships, dated November 2015 ("the Ecology Assessment") and s32 report provided by the applicant.
13. Published reports referred to in my own assessment and compilation of my evidence are cited where I have relied upon them to inform my opinion.
14. I have also looked at garden plantings establishing in the adjacent subdivisions in order to assess how well some of the species proposed in the revegetation areas are establishing in the area.

2 SCOPE and PURPOSE OF MY EVIDENCE

15. To provide:
 - a) An assessment of the proposed ecological effects and planting including the assessment undertaken on behalf of the applicant in order to provide:
 - i. Confirmation of the indigenous biodiversity values affected,
 - ii. A summary of the key ecological elements and issues of the proposal,
 - iii. An analysis of submissions and response to the relief sought,
 - iv. An opinion on the effectiveness of covenants
 - v. Identification of ongoing issues that may arise if Council were a party to the covenant,
 - vi. An opinion regarding the effectiveness and efficiency of allowing LDR zoning should the land be shown to have sensitive ecological and landscape values,
 - b) Recommendations as to whether the proposal should proceed from an ecological perspective; if not, what changes would be required in order to make the proposal consistent with the objectives and policies of the Operative District Plan.

3 Confirmation of Ecological Values and their Significance

Historical Vegetation

16. The S32 report (page 11 of the replacement report dated 10 November 2015), states that “the pre-human vegetation was likely a mosaic of podocarp and broadleaf forest, shrubland and grassland”. This statement is not consistent with the report by the applicant’s ecologist, nor my own understanding. Historical, pre-human vegetation distributed across drought and frost prone land within land environment N5.1c found in the inland basins of Otago, Canterbury and Marlborough was scrub, shrubland and tussock grassland; in particular, kanuka and short tussock grasslands such as in this area (Leathwick, 2003). My own assessment is consistent with The Ecology Assessment and the Ecological District summaries published by McEwen (1987)¹. This vegetation type persists at the site. Exotic pasture grasses, kanuka and divaricating shrubland are present in the Open Space, along the lake ridge to the north and the slopes east of the Peninsula Bay subdivision, within areas classified by LENZ as environment N4.1d.

Threatened Environment Classification (TEC)

17. To clarify, the site affected is classified under the LENZ system² as predominantly N5.1c, an acutely threatened environment. Most of the proposed plan change area falls within this environment. Land along and north of the ridgeline (N4.1d) is classified as chronically threatened. A 2012 Review of the TEC system acknowledged that while it provides just a crude estimate³, approximately 2.5% of the indigenous vegetation naturally associated with N5.1c environments remains and there has been a slight reduction in the area protected (0.7 % in 2012 down from 0.8% in 2002), so the environment remains acutely threatened and therefore extremely vulnerable to further losses⁴. Again, this information was provided in the Ecology Assessment and I concur with the LENZ assessment therein.

At Risk Species

18. The Forest and Bird Submission states that there are “two At Risk species” present although they do not identify them or their location within the Plan Change area. I can confirm the presence of prostrate bluegrass (*Connochloa tenuis*), and cushion Pimelea (*Pimelea sericeovillosa* subsp. *Pulvinaris*), both are At Risk – declining species⁵ within the area proposed for re-zoning

¹ McEwen, W.M. (1987): Ecological Regions and Districts of New Zealand. NZ Biological Resources Centre Publication No. 5. (in 4 parts) Part 4. Department of Conservation, Wellington.

² A summary explanation of the LENZ classification system is provided as an attachment to the applicant’s Ecological Assessment.

³ Cieraad, E., Walker, S., Price, R. and Barringer, J. (2015): An updated assessment of indigenous cover remaining and legal protection in New Zealand’s land environments. NZ J Ecology (2015): 39 (2)

⁴ <http://www.landcareresearch.co.nz/resources/maps-satellites/threatened-environment-classification/downloads>

⁵ de Lange PJ, Rolfe JR, Champion PD, Courtney SP, Heenan PB, Barkla JW, Cameron EK, Norton DA, Hitchmough RA. 2013: Conservation status of New Zealand indigenous vascular plants, 2012. Department of Conservation,

and the adjacent open space. The cushion Pimelea is in Lot 20, while the prostrate bluegrass is more widespread within Lots 5, 6, 10, 11, 12, 13 and 20.

19. There are a range of native and exotic passerines known to be present, none of which are threatened and all of which are commonly associated with the environments and habitats found at the site. These are provided in a list attached to the Ecology Assessment.
20. On the site visit undertaken on 22nd June, 2016 I recorded a NZ falcon 'eastern' on a stump in proposed Lot 16. The eastern subspecies is classified as At Risk and recovering.⁶
21. **Lizards most likely to be present are McCann's skink** *Oligosoma maccanni*, a common and widespread dry grassland species and, less likely, the Southern Alps gecko (*Woodworthia* sp. 'Southern Alps') which was reported to have been found in kanuka shrubland and rocky habitats near Beacon Point in 1997⁷. While the Southern Alps gecko could potentially be present in kanuka shrubland it is more commonly associated with rocky habitats, little of which is present in the Plan Change area. Neither species are threatened.⁸

Representativeness

22. **The applicant's ecologist** considered that while the kanuka shrubland and tussock grassland "could be considered representative of the natural ecological values (and processes) of the Wanaka area..." and "kanuka vegetation is also representative of shrubland within the district" neither vegetation type met the criterion for *representativeness* as it was not "one of the best". **I accept that the vegetation present is not "one of the best", however the vegetation is a representative of the full range of the remaining vegetation of this acutely threatened environment.** The indigenous vegetation in the majority of acutely threatened environments is modified or degraded, however this does not detract from their importance⁹. The degraded fragments are in many instances all that remains of indigenous cover in some areas and it is for that reason, their protection has been identified as National Priority 1 of the Statement of National Priorities for Protecting Rare and Threatened Indigenous Biodiversity on Private Land¹⁰.

Wellington, New Zealand. <http://www.doc.govt.nz/publications/conservation/nz-threat-classification-system/nz-threat-classification-system-lists-2012-14/>

⁶ Robertson, H., Dowding, J., Elliott, G., Hitchmough, R., Miskelly, C., O'Donnell, C., Powlesland, R., Sagar, P., Scofield, P., Taylor, G. (2013). Conservation status of New Zealand birds, 2012. *New Zealand Threat Classification Series 4*. 22 p. Department of Conservation, Wellington.

⁷ Jewell, T. and McFarlane, L (1997): Research on Grey Geckos (genus *Hoplodactylus* Fitzinger, 1843) in the Hawea-Wanaka District, 5-9 May 1997 unpublished report Otago Conservancy, NZ Department of Conservation, Dunedin.

⁸ Hitchmough R, Anderson P, Barr B, Monks J, Lettink M, Reardon J, Tocher M, Whitaker A. 2013. Conservation status of New Zealand reptiles, 2012

⁹ Davis, M., Head, N.J., Myers, S.C., Moore, S.H. (2016): Department of Conservation Guidelines for assessing significant ecological values. Department of Conservation, Wellington.

¹⁰ Ministry for the Environment (2007): Protecting Our Places. Ministry for the Environment, Wellington.

Rarity

23. The Ecology Assessment acknowledged that “tussock grassland as a habitat type is generally substantially reduced in extent **and becoming increasingly rare**”. “Kanuka habitats are also rare **in the Pisa Ecological District**”¹¹, additionally, three At Risk species are confirmed present, therefore the criterion of *rarity* has been met.

Connectivity

24. Neither the tussock grassland or kanuka shrubland met the test of having *distinctive or special ecological character*; but the vegetation did satisfy the criterion of having *connectivity* as it formed a part of the band of vegetation present from Beacon Point, along the edge of Lake Wanaka around to the nearby Hikuwai Conservation Area, Clutha River and Mount Iron Scenic Reserve.

Sustainability

25. The **applicant’s ecologist considered that due to the** small size of the tussock grassland it had reduced potential for long-term *self-sustainability*. The grassland was considered to be unsustainable without management and I would tend to agree given the impact of the lack of custodial management over the past 10 years. Conifers have been felled in what appears to be an ad hoc way, but they have impacted on the integrity of the vegetation surrounding them, (Refer to Figures 1 to 3 at the back of my evidence). Additionally, mouse ear hawkweed may have increased in areas where rabbit infestations are more obvious, (e.g. in the area of Lot 21 and the proposed lookout) but the mat forming *Coprosma petriei* has persisted in these areas which also support the At Risk cushion *Pimelea*.

Locally Significant/ Significant within the District

26. On balance, the Ecology Assessment concludes ¹²:

“The vegetation within the area affected by the proposed Peninsula Bay North End plan change includes both kanuka shrubland and depleted tussock grassland which can be considered locally significant [or at best significant on a District scale¹³] using the criteria in the [Operational] Queenstown Lakes District Plan.” [My insertions].

It is my view that the confirmed presence of At Risk species coupled with the vulnerability to further loss of indigenous vegetation within an acutely threatened environment should elevate the site to one of at least District significance.

¹¹ page 10 of the MP ecologist’s report; page 124 of the s32 replacement report dated 10 November, 2015

¹² page 133 of the s32 replacement report

¹³ page 126 of the s32 replacement report – Ecology Assessment

- 4 THE PROPOSAL AND SUMMARY OF THE KEY ECOLOGICAL ELEMENTS
27. Peninsula Bay Joint Venture (**"PBJV"**) has applied to rezone approximately 6 hectares (ha) of Open Space zoned land at the north end of Peninsula Bay (legally described as Lot 920 DP486039) for specific low density residential development, whilst providing ecological and passive recreational benefits on the balance of the Open Space zoned land between the Peninsula Bay development and Lake Wanaka.
28. The land proposed for re-zoning (6.11 ha) is 48% of the approximately 12.56 ha of land originally **intended to be vested in the Queenstown Lakes District Council ("the Council") as reserve**¹⁴. If successful, the remaining 6.45 ha (52%) of the land is proposed to remain as Open Space and be vested in Council as reserve.¹⁵
29. **The applicant suggests that** *"the environmental context of the site has changed since Variation 15 and 25"* and that **"the northern portion of the site is now not as vulnerable to change or development as it was the Court made its earlier findings."**¹⁶
30. PBJV **rely on** *"comprehensive land covenants"*¹⁷ **to ensure** *"that the built form and preservation and enhancement of native vegetation is maintained in perpetuity"*.¹⁸
31. The application states that **"the development of residential building platforms** (as shown in Appendix A [scheme plan] attached [to the application]) *will necessitate the removal of approximately 4,850 m² of existing indigenous vegetation. An area of approximately 4,500m² of existing kanuka will be retained and enhanced and an additional 1.1 ha (11,000m²) of new planting is proposed. Overall, the amount of indigenous vegetation at the site will increase as a result of the proposed plan change, resulting in ecological gains."¹⁹*
32. *"PBJV proposes to enhance the land which remains zoned Open Space [6.45ha] by creating new walkways, mountain bike tracks and installing a memorial to the late Bob Robertson, co-founder of Infinity."*²⁰

¹⁴ Section 6.1.1 Economic Benefits – page 21 of the Replacement s32 Report dated 10th November, 2015

¹⁵ Section 3.1 The Purpose of and Reasons for the Proposed Plan Change, pages 15 of the Replacement s32 Report dated 10/11/15

¹⁶ Section 2.1 Background to the Peninsula Bay Development, pages 10 and 11 of the Replacement s32 Report dated 10/11/15

¹⁷ Ibid, page 14

¹⁸ Ibid, page 8.

¹⁹ Section 3.1 The Purpose of and Reasons for the Proposed Plan Change, pages 15 of the Replacement s32 Report dated 10/11/15

²⁰ ibid

33. The application states that the retention and enhancement of indigenous vegetation of value will through the proposal “*result in improved ecological integrity, diversity, function and connection between existing patches of habitat, and a net positive ecological outcome*”^{21, 22}.

34. **Aspiring Trail Network (“ATN”)** - Submission 51/152 - stated that:

“*On the 22nd of December 2015, Infinity engaged with ATN and we agreed on five changes to the proposal*”. These included:

- 1) An agreement to move car park number 1 to a preferred location adjacent to proposed allotment 26,
- 2) PBJV would provide a new bike track (number 2) from car park number 1 to Venus Landing, a track that I estimate (using Google Earth Pro and assuming a construction width of 5 metres) would result in approximately 530m² of kanuka shrubland clearance,
- 3) PBJV would provide **a new track shown as ‘mountain bike track – single track’ on ATN map 1** from Venus Landing heading north-east. Refer to the Rachel Stanford Landscape Concept, Peninsula Bay North End Proposed Plan Change, dated 5 **November, 2015 Revision F (“the Stanford Landscape Concept Plan”)** – Appendix C - of the Replacement s32 Report. I have again used Google Earth Pro to estimate that construction of this track, which is proposed in the ATN submission as a grade 2 track **following Council’s Track Design Standards and Specifications, would result in** the clearance of approximately 1,440 m² of kanuka.
- 4) PBJV would construct another car park, at the end of Bull Ridge (number 3 on the ATN map1), I estimate, using map 1 attached to the ATN submission, that this may require a reduction of about 50m² in Revegetation Area E6.
- 5) PBJV would redesign the hub or convergence of walking and biking track near the lookout shown on the Stanford Landscape Concept Plan. This would result in an as yet unspecified level of disturbance to the existing kanuka shrubland and remaining short tussock (fescue) grassland.

35. I estimate clearance of kanuka shrubland to facilitate the ATN and other walking and biking tracks combined, as shown on the Stanford Landscape Concept Plan – Appendix C - and the maps attached to the ATN submission to be about 2,890 m² (1,970 m² associated with the two ATN tracks, and about 1,820 m² to be cleared where tracks are shown through the kanuka shrubland north of Lot 6, 13 and 20). These losses are additional to the 4,850 m² to be cleared within the

²¹ Section 6 – Evaluation of Policies, Rules and Other Methods, Consideration of alternatives, page 19 of the Replacement s32 Report dated 10/11/15

²² Page 6 of the Replacement S32 Report dated 10 November 2015/page 2 of the notified application

residential building platforms.

36. I also estimate using the Stanford Landscape Concept Plan – Appendix C and the Council GIS - that up to about 845m² of kanuka shrubland, short tussock grassland and pasture grass would be cleared in order to establish road access to Lots 20 to 24.
37. Additionally, the covenant condition 9 (Appendix G) allows for clearance of vegetation for fence construction which will potentially impact on at least 250 m² of kanuka identified in the 4,500 m² of kanuka to be retained on the Stanford Landscape Concept Plan.
38. I again used Google Earth Pro, the QLDC GIS Viewer and the Stanford Landscape Concept Plan – Appendix C - to estimate vegetation not specifically protected within each allotment, whether inside the identified building platform or not and it appears that about 11,216 m² of kanuka and short tussock (fescue) grassland **is vulnerable to loss, including the applicant's estimation of 4,850 m²** of indigenous vegetation to be cleared in order to establish building platforms. I refer to Figure 1 below. This estimate is about 60% more than the figure given by the applicant for vegetation likely to be removed. These estimates do not include the areas in Lot 5 and 6 where At Risk prostrate bluegrass (*Connochloa tenuis*) is distributed.

Figure 1: Areas of unprotected kanuka and short tussock (fescue) grassland (16,100 m²) estimated using Google Earth Pro, assisted by the Council GIS. Not including areas to be cleared for the construction of a monument and proposed realignment of tracks near the lookout (yellow square) or the full extent of Lots 13 to 19 as some of these areas are dominated by pasture grass between kanuka clusters which have been counted. This does not include the depleted fescue tussock and kanuka that would be modified by revegetation.



39. If the Open Space area is re-zoned for Low Density Residential use, and subsequently subdivided in the manner identified in the Scheme Plan (Paterson Pitts) and Stanford Landscape Concept Plan, kanuka (predominantly) and short tussock (fescue) grassland will be removed by clearance for roads, tracks, fences and the establishment of building platforms from about 16,100 m² on PBJV owned land. By virtue of its non-protection under the Stanford Landscape Concept Plan vegetation outside the building platforms is vulnerable to loss and so has been included in the estimate given. Areas identified for revegetation **using 'S' Section species**, contain some fescue tussock communities (in the area of Lots 21 and 22) but also beech forest associates characteristic of Q2.2a environments - in the gullies of the surrounding mountains.
40. The applicant estimates about 11,000 m² would be revegetated, although an area of 11,453m² is achieved if the Revegetation Areas shown on the Stanford Landscape Concept Plan are totalled, and approximately 50 m² is deducted from area E3 for Car park 3 as proposed by the ATN.
41. If my estimates are reasonable, and I consider them to be conservative and potential under-estimates, this would result in a potential net loss of about 4,648 m² of indigenous vegetation if the area were to be re-zoned and developed as indicated in the application. Where revegetation is proposed in accordance with the Stanford Landscape Concept Plan planting would not necessarily reinstate, like for like, communities cleared from the site. Revegetation as proposed has the potential to substantially modify the integrity of the remaining communities by introducing species not naturally present in the area, this was an issue of concern raised in some detail in the submission by Forest and Bird [51/162].
42. The Stanford Landscape Concept currently only identifies 391m² of kanuka planting on the western boundary of Lots 1 and 2 to screen a building west of the those allotments. Approximately 3,827 m² of short tussock (fescue) grassland would be removed from the open ground between the Building Platforms of Lots 13 and 20 and 16 and 21. Additional losses will occur within the building platforms of Lots 13 to 16 and 20 to 22; but just 335m² is identified for **revegetation as Section 'A' on the Stanford Landscape Concept Plan**, a loss of 3,492 m². A **substantial local loss of a community acknowledged by the applicant's ecologist as "substantially reduced in extent and becoming increasingly rare", paragraph 22**, and which I have confirmed to be supporting two At Risk plant species.
43. The most substantial losses of indigenous vegetation under the proposed re-zoning would occur in Lots 13 to 25 (approximately 10,831 m²) with minor additional losses in Lots 1 to 12 (385 m²), refer to Table 1 attached to the back of my evidence.

44. A 48% reduction in the Open Space area north of the existing Peninsula Bay subdivision would also potentially limit the future opportunities for track construction or realignment of existing or proposed future tracks. Any such construction, not already contemplated by the proposal, may result in additional clearance of vegetation. This is an issue that was raised in point 4 of the Council submission [51/155].
45. Council staff confirm that a reduced area of Open Space may require additional switchbacks and therefore vegetation loss when determining the design and alignment of new and existing tracks **required to meet Council's track standards and specifications**²³.
46. Earthwork details are yet to be confirmed, however, the s 32 Replacement Report (Section 6.15, page 23) provides a preliminary estimate of 4,500m³ cut and 1,800m³ of fill leaving a surplus of 2,700m³. It would not be fanciful to suggest this may be used in mounding or re-distributed on site at the time of subdivision. Although not specified beyond the draft profiles provided in Appendix I of the Replacement s32 report, if earthworks are required to elevate the ground within Lots 4 to 6 and 20 to 22 in order to achieve screening with lower stature vegetation, e.g. kanuka rather than beech trees, this is an example of land use that may result in the loss of vegetation not protected beyond the footprint of the building platform. I note a large volume of fill including some hard fill has been stockpiled in lots 4, 5 and 7 on Bull Ridge.
47. I want to note at this point that the brief of the Mitchell Partnerships Ecologist was described on page 117 of the Replacement s32 Report dated 10 November; it was to:
- "Identify ecological values at the site and advice as to the location of building platforms so as to reduce the impact on the ecological values present, as well as defining the extent and location of enhancement planting for the site. We defined the goals of the enhancement planting as:***
- 1) *Retaining the tussock vegetation where practicable.*
 - 2) *Introducing diversity as part of the plantings using eco-sourced plants that are typical of shrubland habitat in the Wanaka area and specifically the Pisa Ecological District, but currently only rarely found at the site. In particular, including species that provide seasonal food for birds to assist in seed dispersal in the wider area and species that are not bird or wind dispersed (such as beech, *Fuscospora* spp.).*
 - 3) *Maintaining or restoring ecological connectivity between patches of similar habitat (kanuka or tussock).*
 - 4) *Establishing dense edge vegetation along new cut edges to buffer the changes brought about by clearance of kanuka and reduce weed invasion in both tussock and kanuka habitats.*
 - 5) *Increasing the proportion of green leafy plants (i.e. those that are less flammable than kanuka, Fogarty, 2001) to reduce fire hazard closest to the proposed house sites.*
 - 6) *Locating plants at appropriate microsites with respect to topography, drainage and aspect to **positively influence their survival.***

²³ Personal communication, Vicki Jones, email dated 25 May 2015

48. In relation to goal 1, as stated in paragraph 42 above, I estimate that approximately 3,827 m² of short tussock (fescue) grassland could be removed from the open ground between the Building Platforms of Lots 13 and 20 and 16 and 21, by virtue of its non-protection. Additional losses will occur within the building platforms of Lots 13 to 16 and 20 to 22 and the access to these but only 335 m² of **“alpine vegetation” is proposed for replanting**. Practical retention therefore does not seem viable under the current proposal.
49. In relation to goal 3, I note the Ecology Assessment concludes that the site has and provides good connectivity with the surrounding vegetation, refer paragraph 24.²⁴ I agree with that assessment, and my own assessment is that the proposed revegetation has the potential to alter the integrity of the existing community but would maintain connectivity of habitat.
50. However, it is my opinion that the zone change is not required to maintain the existing connectivity afforded by the Status Quo of the current Open Space zoning. Additionally, nothing would preclude enhancement planting from occurring in conjunction with track construction or re-alignment projects in the future and or as initiated by community groups in consultation with Council following the vesting of the Open Space in Council as originally intended.
51. I note the gardens of the adjacent subdivision will also provide, if they do not already, a level of establishing diversity that may result in regeneration (dispersal / invasion) of broadleaved species into the Open Space.
52. If the zone change proposal is successful; revegetation could result in allotments 1 to 12 (Section E) being vegetated with:
- a) mountain beech *Fuscospora cliffortioides*, broadleaf *Griselinia littoralis*, kohuhu *Pittosporum tenuifolium*, totara *Podocarpus laetus*, *Hebe salicifolia* (now *Veronica salicifolia*), mountain ribbonwood *Plagianthus regius*, and *Coprosma*, essentially a beech forest community not naturally present in this area (e.g. Figures 4 to 9 provided at the back of my evidence).
- Or
- b) Kanuka *Kunzea robusta*,
- Or
- c) Kanuka, narrow leaved snow tussock *Chionochloa rigida*, *Coprosma propinqua*, *Coprosma intertexta*, *Corokia cotoneaster*, native broom *Carmichaelia petriei*, porcupine shrub *Meliccytus alpinus*, a community with good diversity that would

²⁴ Page 125 of the Replacement S32 Report dated 10 November 2015/page 11 of the Ecological Assessment, Appendix F of the notified application

supplement the existing community in the N4.1d – N5.1c interface.

Or

- d) Any combination of these, or other species introduced in a subsequent resource consent application.

53. Section S plantings **proposed around “Shady” areas of Lots 13 to 23** could include:

- a) Red beech *Fuscospora fusca*, wineberry *Aristotelia serratus*, *Coprosma lucida*, *Fuchsia excorticata*, *Hoheria glabrata*, totara, three finger *Pseudopanax colensoi* var. *colensoi*, *Coprosma* (again, a red beech forest association), which may require irrigation, shelter and very likely replacement of losses well after the initial phase of establishment as a result of exposure to drought and frost,

Or

- b) *Coprosma*, Kowhai, native broom and kanuka, similar to the vegetation present around the Peninsula and more appropriate in terms of the N4.1d environment.

Or

- c) Any combination of these, or other species introduced in a subsequent resource consent application to subdivide.

54. Mixed red and mountain beech forests are naturally found in the Upper Matukituki River catchment²⁵, side tributaries of the Motatapu River (c. 16km west) and the Fern Burn (12.8 km west). The nearest remnants of mountain beech forest are found on the colluvial/ riparian soils on shady aspects of Grandview Creek (c. 17 km east) with Luggate Creek (c. 12 km south-east), and Spotts Creek (c. 12 km south-west) which holds silver beech within steep, shaded catchments²⁶. These remnant forest patches are all associated with Q2.2a Land Environments in the Pisa, Wanaka and Lindis Ecological Districts or in the case of the Upper Matukituki an outlying P5 Land Environment²⁷. In any event, the environments are not comparable to the morainic, frost and drought prone, wind exposed N5.1c environment of the Peninsula Bay and lake outlet area in the Upper Clutha. Therefore, while Figures 4 and 5 demonstrate it may be possible to establish, it is in my view, mis-guided to anticipate that planting to introduce diversity to support succession towards forest would be an ecologically appropriate means of off-setting the loss of kanuka shrubland and short tussock grassland in this acutely threatened environment. The aspirations of goal 2 are therefore viewed as ecologically inappropriate and more of a

²⁵ From Lucas, D. and Head, N. (1995): Indigenous Ecosystems: An Ecological Plan Structure for the Lakes District. A report to the Queenstown Lakes District Council. Lucas Associates, Christchurch. Map - Vegetation of the Mount Aspiring National Park

²⁶ Ward, .C.M. et al (1994): Lindis, Pisa and Dunstan Ecological District – A Survey Report for the Protected Natural Areas Programme. NZ Protected Natural Areas Programme Series No 36. Department of Conservation, Dunedin.

²⁷ Leathwick, J. (2003): Land Environments of New Zealand. Ministry for the Environment

screening than ecological benefit.

55. The most significant site limitations in terms of the proposed revegetation are likely to be exposure to wind and the dry summer soils. The proximity to the lake and exposure to wind is likely to moderate but not remove the potential for frost damage to broad leaved species (**“green leafy” species**). While goal 6 of the Ecology Assessment is an appropriate foundation for the revegetation proposed, some beech forest associates may be challenging to establish (e.g. fuchsia and wineberry). All plantings would benefit from irrigation, shelter and animal pest control. Maintenance regimes were not identified by the proposal and I assume would be specified at the time of subdivision. I will address issues regarding how the proposal would achieve the other goals later in my evidence.

5 Analysis of Submissions

Rationale used to validate the Proposed Plan Change

56. Submissions were received in regard to concerns that the proposal to re-zone the Open Space could be justified on the basis that the values of the open space had changed substantially such that they were no longer as vulnerable to loss and so development could be considered more acceptable [e.g. Young – 51/11, Brown – 51/25, Forest and Bird – 51/162, Hellebrekers – 51/202]; that the open space has become more popular and appreciated for walking and biking in a natural setting [e.g. Schikker - 51/133, Griffith-Jones – 51/143].

57. I have confirmed the ecological values present and their increased vulnerability to loss within my evidence. This rationale used to justify the re-zoning and LDR use is therefore flawed in my view.

Benefits resulting from Plan Change over stated

58. Submissions stated that it is no less critical to protect the values in the Open Space today than it was when Variation 15 and 25 were decided [e.g. Forest and Bird – 51/162, Hellebrekers – 51/202] and that the positive outcomes or gains of the Plan Change proposal in its current form **are “overstated” at least on ecological grounds**, or will not be achieved as an outcome [Smith - 51/159 and Lewis - 51/103].

59. I have confirmed in my own assessment of the proposed clearance and revegetation, establishment of tracks and fencing that there will in fact be a net loss of about 4,648 m² of vegetation including a loss of about 3,827m² of fescue tussock grassland (refer paragraphs 41, 42 and 48 above).

60. The relief sought in the Forest and Bird submission [51/162] included restrictions on the species **that could be planted into revegetation/ buffer areas such as “allowing only those that would occur naturally in this area”**. The Forest and Bird submission did not oppose the development of Lots 7 to 12 with the associated buffer planting.
61. In paragraphs 51 - 53 above I have also identified that potential for planting to reduce the integrity of local vegetation communities through the introduction of inappropriate species. Noting that planting schedules also have the potential to support the integrity of the existing communities.
62. Nicola McGregor [51/33] submitted in regard to the fact that it will take some time for plants in the revegetation areas to establish, so clearly the remedial works associated with the change in land use will not result in any immediate gains in biodiversity values.

Value of Status Quo – environmental setting

63. A substantial theme among many of the submitters relates to the value and importance of the vegetation and ecological values within the ONL and Open Space and the perception and experience of these values as integral components that support the recreational and aesthetic setting of the area for walking and mountain biking; [Carish – 51/07, Symon – 51/18, Smith – 51/20, Robertson – 51/23, Brown – 51/25, Locker – 51/26, Holst – 51/28, Rabe – 51/64, Birkby – 51/139, Griffith-Jones – 51/143, Baker – 51/67, Clearwater – 51/100].
64. The Aspiring Tracks Network [51/152] provided information regarding agreements for additional tracks and relocated car parks they have negotiated with PBJV as conditions of any approval to rezone and develop. The construction of these tracks would result in an increased area of vegetation removal but no remediation of these effects is proposed by the ATN submission or the applicant in the revised s32 report as noted in paragraph 43 above.

Ecological and Habitat Values require continuing protection

65. Several submitters considered that the ecological and habitat values present required continuing protection; the vegetation provides an important buffer between lake and existing development and habitat for birdlife and other species [e.g. Young – 51/11, Cruickshank – 51/16, Symon – 51/18, Smith – 51/20, Robertson – 51/23, Baker – 51/67, Holst – 51/28, Marks – 51/31, Quirk – 51/34, Schikker – 51/133, Birkby – 51/139, Griffith-Jones – 51/143, LAC Property Trust – 51/147, Forest and Bird – 51/162, Kingsley – 51/167 and a total of 119 pro forma submissions, Schwindt 51/192 and Hellebrekers – 51/202] and that replacement of existing vegetation **with “woody species for visual screening purposes is not appropriate and fails to protect or replace significant vegetation and species”** [Forest and Bird – 51/162]. Some of the specific statements in these

submissions were:

- a) **“deleterious effects on an area of natural beauty”** – Young 51/11
- b) **“protect the natural habitat of the area, ensure it remains suitable for all to enjoy”** – Robertson 51/23
- c) **“the landscape and ecological values are not protected by this submission and cannot be substituted”** - Birkby – 51/139
- d) **“There would be insufficient protection of short tussock grassland and that the proposed new woody planting would introduce alien species”** – Forest and Bird – 51/162

66. I have also identified these issues in my own assessment, in my confirmation of values and discussion of vegetation communities that could be planted under the current proposal. I will respond to these issues further in my discussion of the covenant conditions and recommendations.

Reduction in Open Space may compromise viability of future public access options

67. The reduction of or impingement on Open Space was an issue also raised in many submissions, but the Council submission [51/155] was that while **the existing reserve has “ample room” for accommodating the “construction and maintenance of tracks”** ... **“the proposed reduction in open space may compromise the viability of future public access”**. The implications for the maintenance of ecological values, representative (albeit modified) vegetation communities within an acutely threatened environment in particular, is that if the Open Space zone owned by PBJV is reduced by the proposed 48%, opportunities to manage future uses must necessarily be confined to the balance, including the further vegetation losses that would result from implementing all elements of the proposed plan change as well as any future land uses.

Removal of vegetation inadequately compensated

68. The Council submission also raises the issue of whether the proposed planting adequately compensates or offsets the removal of indigenous vegetation (51/155; point 5) and whether the **revegetation proposed is viable given the sites’ exposure, and whether they will require irrigation, pest control and maintenance**. The question of **whether the ‘depleted tussock grassland’ could be ‘improved’** under Council management is also raised. The Forest and Bird submission [51/162] **contends that the proposal “does not provide for establishment of new short tussock grassland elsewhere and there is no off-setting”**.

69. I concur that these are valid concerns and will address them further later in my evidence.

Relief Sought

70. All but one submission requested the that the Plan Change be rejected or declined.

71. That the Open Space be vested in Council as was originally intended – e.g. 51/143, 51/164, 51/159, 51/202.
 72. If the zone change is allowed, that only Lots 7 to 12 be allowed with strict controls over species planted – only those which would naturally occur in the area – 51/162
 73. Council seeks that the Plan Change be rejected unless the panel is assured that the proposed planting and ecological restoration a) will provide indigenous biodiversity benefits that compensate or offset the proposed loss of indigenous vegetation and b) are **viable....** taking into **account the ... nature of the site, maintenance**, irrigation and pest control;
 74. Council seeks that the Plan Change be rejected unless it can be resolved that the covenants can effectively mitigate effects if administered by a third party, the ongoing issues relating to administration of the covenants can be managed, whether re-zoning to LDR will be an effective and efficient outcome if the land is shown to have ecological values that are sensitive.
 75. The single submission in support [51/137] by Dupont considered the revegetation to be adequate to offset the removal of existing vegetation. I do not agree for reasons I have and will discuss.
- 6 The effectiveness of the Draft Covenant Conditions
76. The re-zoning application could result in the removal of about 16,100m² of kanuka shrubland – short tussock grassland being removed, as an outcome of subdivision and development of land re-zoned to low density residential. The kanuka to be retained, and the areas revegetated with native plantings would be transferred from Open Space to private allotments with management addressed under conditions of covenant registered against titles.
 77. The Stanford Landscape Concept Plan referred to in Covenant Condition 6 does not specify the exact composition of planting in any area. **The condition requires planting in “general accordance” with a general plan that indicates a palette of species that will potentially achieve a variable outcome for biodiversity and the ecological integrity of the site**, refer to paragraphs 51 to 53), and Figures 4 to 9 as examples of planting that may occur under the Plan and have been established in the adjacent subdivisions.
 78. Draft condition 7 requires revegetation areas to be planted prior to s224c certificates being issued for the Lots requiring this. Condition 7 does not require the plantings to have established and be growing in a way that achieves goals 1 to 4 of the Ecology Assessment (refer paragraph

46) or “*improved ecological integrity, diversity, function and connection between existing patches of habitat, and a net positive ecological outcome*”²⁸.

79. As currently proposed, the revegetation areas will be located within the individual allotment boundaries where they would form a dense hedge. This could make public or Council monitoring of internal spaces difficult beyond the issuance of s224c certificates and establishment of effective screening. The outcomes therefore cannot be confidently ensured in perpetuity as proposed by the applicant, without periodic follow up monitoring and enforcement action where required. This issue raised in the Council submission [51/155] is addressed in recommendations below.
80. In terms of monitoring for long term retention and maintenance of kanuka shrubland, if these are established within land zoned Open Space and vested in Council, it will be much easier to monitor the achievement and sustainable management of the revegetated areas.
81. The benefits or net ecological gains of the Plan Change proposal have in my opinion been overstated and do not assure me that better outcomes than can be achieved under the status quo would be achieved by the re-zoning (refer also paragraph 49); particularly when balanced against the estimated losses, and potential for further vegetation losses within the remaining Open Space that may occur as a result of any need to accommodate any further track construction within the reduced area. This was also an issue of concern raised in point 4 of the Council submission [51/155].
82. The proposal in its current form, does not protect the indigenous vegetation within the acutely threatened environment better than the status quo due to the potential loss of existing vegetation that would not necessarily be replaced in a like for like replanting appropriate to the environment. For example, about 1,424 m² of **planting using the ‘S’ section species** (refer paragraph 51 and 52) would replace about 3,827m² of existing, depleted fescue tussock grassland I estimate to be vulnerable to or identified for removal.
83. I acknowledge again and agree with the submission of Nicola McGregor (51/33) who raised the practical **point that vegetation establishment and maturity will also take “a long time”** so the replacement of the vegetation cleared will be delayed. In my opinion this delay could extend to some 5 to 15 years or longer depending on the commencement of planting following clearance, species selection, seasonal and site conditions (soil quality and irrigation), maintenance, animal pest control and co-ordination with the construction of tracks.

²⁸ Page 6 of the Replacement S32 Report dated 10 November 2015/page 2 of the notified application

84. I opine that should re-zoning and subdivision be accepted as an appropriate use of the site, then a more ecologically appropriate management of the Open Space could be achieved through amendments to the proposal, covenant conditions and Landscape Concept Plan, these recommendations follow.

85. Draft covenant condition 13 specifies that allotments and road reserves shall be kept free of conifers (*Pinus*, *Pseudotsuga*) and broom (*Cytisus*). The requirement for ongoing management of these weed species on the balance of the open space would presumably fall to QLDC following vesting. Given the seed sources for these species in the immediately surrounding landscape, ongoing removal of invasive woody weeds is likely to be necessary. This is likely to entail a programme of monitoring and removal every 5 years.

86. To improve the effectiveness of condition 13 it is recommended that it be amended to require the land owner, in this case PBJV, to remove conifers and broom (*Cytisus*) from the Open Space zone and maintain this condition until such time as it is vested in Council; allotments shall be kept free of these weeds in perpetuity.

87. I observed that degradation of the vegetation communities has occurred under current ownership **with obvious impacts from rabbits, conifers and 'heiracium' (mouse-ear hawkweed – *Pilosella officinarum*)**, particularly in Lots 21 to 23, (compare Figures 2 to 3 at the back of my evidence), however mat forming *Coprosma petriei* has persisted and perhaps increased in ground cover.

7 Recommendations and Response to relief sought in submissions

88. The ecological and/ or biodiversity benefits or offsets proposed, are in their current form, insufficient in my view to justify the proposed re-zoning on ecological grounds; but could be improved by:

- a) Reducing the area to be rezoned to Lots 1 to 4 and 7 to 12, and
- b) Amending the Stanford Landscape Concept Plan, to incorporate the palette of species identified in Table 1 for shrubland and grassland rather than potentially ecologically incongruent species currently in 'E', 'S' and 'K' revegetation sections. **The confirmation of specific planting plans would occur at the time of subdivision.**
- a) Amending the Stanford Landscape Concept Plan to create a graduated transition between garden/ screen plantings on private land and the open space plantings incorporating kanuka, low stature shrubs and enhanced elements of fescue grassland at the margin of open areas of pasture grass.
- b) Reducing and reconfiguring allotments such that areas planted for screening and garden

landscaping purposes are restricted to private allotments while shrubland and grassland species more consistent with the surrounding and naturally occurring vegetation are planted into land to be held as Open Space zone and maintained by Council; Table 1 lists the **amended revegetation communities to replace 'E', 'S' and 'A' with shrubland and grassland communities and screening/ landscape gardening communities,**

- c) Plantings in amended **areas 'RE 1 to 6' would therefore be maintained by Council, this is** more likely to ensure the long term management of the proposed mitigation.

89. The Forest and Bird submission identifies Lots 7 to 12 with associated planting as being appropriate. Lots 1 to 4 and part of 5 and 7 have been affected by the storage of fill material, if these areas are not re-zoned, they should be reinstated to a natural contour and a mixture of open kanuka and fescue tussock grassland reinstated.

90. The ecological gains associated with the current proposal are more beneficial for Lots 1 to 12 than for Lots 13 to 26. However, benefits to biodiversity through revegetation planting associated with Lots 1 to 12 (if undertaken as above) coupled with

- a) remediation planting around tracks using species identified for shrubland and/ or grassland, in Table 1 attached at the back of my evidence, and
- b) enhancement through supplemental planting and weed control in areas of short tussock (depleted fescue) grassland in the vicinity of proposed (but recommended for deletion) Lots 21, 22 and 23 and around any look out or memorial to be established on the ridgeline, as shown on the Stanford Landscape Concept Plan,

would provide the sort of ecological outcomes referred to in paragraph 31 proposal “... *improved ecological integrity, diversity, function and connection between existing patches of habitat, and a net positive ecological outcome*”²⁹. Placing revegetation areas into Council administered Open Space reserves will enable better ongoing monitoring of planting. Private allotments could contain the screening landscape treatments.

91. The recommended approach positively contrasts with the hard, hedging effect edge proposed under the Stanford Landscape Concept Plan and identified as goal 4 of the enhancement planting by providing a more natural, graduated transition between garden allotments and Open Space, (e.g. Figures 7, 8 and 9 at the back of my evidence).

92. The inclusion of **'green leafy'** the species in as fire retardants (e.g. Figure 6) as per goal 5 of the

²⁹ Page 6 of the Replacement S32 Report dated 10 November 2015/page 2 of the notified application

Ecology Assessment, is in my opinion less effective than the installation of good sprinklers and/or the establishment and maintenance of defensible green space around houses. Species that have been given a flammability class in the publication by Fogarty (2001) referred to the Ecology Assessment and included in the Stanford Landscape Concept Plan have been identified in Table 1 along with their flammability classes. Fogarty (2001) contains several statements of qualification in relation to the classes allocated. I have drawn on my training and experience in forming my opinion on this matter summarised in Attachment 1.

93. From my training and experience, I know that in the right conditions, fires, and wildfire in particular will travel, and spot spread through any available fuel, (e.g. Fort McMurray fires in Alberta, Canada in May 2016), and that the Plantation to the east of the Peninsula Bay subdivision is likely to pose a more significant threat to the residential area than the relatively narrow band of vegetation planted to screen residential development or kanuka shrubland existing in the Open Space and reserves north of the subdivision. The risk from fire that may arise from revegetated areas and the northern shrubland is not nil, but I would suggest that the New Zealand Fire Service could make recommendations regarding the appropriate management of that risk. These may include, but will probably not be limited to planting of green, leafy species nine of which were allocated within the (qualified) low to moderate flammability classes in the Fogarty (2001) publication. I will defer to the advice of the New Zealand Fire Service on the appropriate management of vegetation around building platforms in this setting should the re-zoning application be successful.

Summary of gains versus losses resulting from Recommendations

94. Assuming revegetation planting would be proportional to the extent of any re-zoning and subdivision; the current proposal as previously outlined would result in a net loss of about 4,648m².
95. If partial rezoning and subdivision to establish Lots 1 to 12, 13 to 17 and 19, protecting existing vegetation beyond these lots including a large proportion of the depleted fescue (short tussock) grassland straddling Lots 13 and 20 were protected. This would result in the loss of an estimated 7,023 m²; losses from track construction would result in clearance of about 3,790 m²; **if revegetation or enhancement planting is undertaken in areas 'E1 to E6' and 'S1', then net losses would be about 2,002 m².**
96. To clarify, it is recommended that the Revegetation Sections of the Stanford Landscape Concept Plan be amended as suggested to clarify the communities to be reinstated and the definition between landscape planting for screening and garden landscape amenity and ecological

planting to support the existing community and reinstate seed sources for species naturally associated with N4.1d (shrubland) and N5.1c (kanuka shrubland and short tussock grassland) environments characteristic of the low altitude environments of the Pisa Ecological District.³⁰ Refer to Table 1.

97. In Lots 1 to 12, about 385 m² of kanuka shrubland is not protected under the proposal, while about 7,840 m² is proposed to be planted in Section E (1 to 6). The net result is a gain of about 7,455m² of indigenous vegetation to be planted. If vegetation clearance associated with tracks (3,790m²) is taken into account, the net gain may be reduced to about 3,665 m². Enhancement of short tussock grassland would further boost the value and long term viability of this community.
98. If rezoning and subdivision is restricted to Lots 7 to 12 and revegetation occurs in area E6, a net gain of 3,482 m² may be achieved. However, if clearance for tracks is taken into account, this gain may be reduced to a loss of about 300 m².

8 Recommended Amendments to Proposed Covenants

99. Covenant Conditions 5 and 8 should be combined so as to clarify the expectation that the existing vegetation to be retained, and all existing areas of kanuka shrubland and short tussock grassland in the remaining Open Space is to be protected from weed infestation, and plantings protected from browsing rabbits; any losses are to be replanted with species locally present (refer to Table 1) and establishing well within the planted areas; maintenance of plantings (irrigation, release from competition; shelter from wind and protection from browse), should continue until established (up to 5 years following planting), prior to the vesting in Council, or afterwards if management agreements to facilitate this are in place, this amendment should be applied regardless of the number of allotments approved.
100. The covenant conditions should clarify that the land owner, in this case PBJV, should be required to remove conifers and broom from the Open Space zone and maintain this control until such time as it is vested in Council when it would become an ongoing management task for Council. If this was a requirement of the previous Resource Consent, if has not been adequately undertaken over the past 10 years. Monitoring and removal is recommended every 5 years to prevent the establishment of infestations. Private allotments and road reserves shall be kept free of these weeds in perpetuity,

³⁰ McEwen, W.M. (Ed.) (1987): Ecological Regions and Districts of New Zealand. NZ Biological Resources Centre. Publication No. 5. Dept. of Conservation, Wellington.

101. To clarify, regardless of the number of allotments that may be approved for re-zoning, screen planting should be restricted to private allotments; the allotment sizes should be reduced by bringing revegetation areas (to be planted with species found naturally in the area), into the Open Space zoning to be vested in Council. Table 1 amends the species lists for revegetation and visual amenity mitigation planting.

102. Condition 7 remains appropriate in my opinion, but clarity regarding whether the vegetation must be established, and the Open Space areas vested in Council or just planted in order to receive s224c certificates; and whether planting would occur on a Lot by Lot basis or as one project where required; would provide greater assurance regarding **the proposals' ability to deliver the** purported net benefits for biodiversity.

103. The establishment of public tracks, lookouts and monuments should be balanced with reinstatement and support of existing diversity by re-planting along and into the disturbed margins; controlling weeds and animal pests. Plantings are to include a selection of species identified in the kanuka shrubland and short tussock grassland communities listed in Table 1. Establishment of this planting should be a pre-condition to vesting the land with Council in order to reduce the ongoing maintenance costs that would be incurred by Council.

104. Condition 9 will establish fenced boundaries between Open Space and private allotments; as previously noted, this requires clearance of vegetation that was identified on the Landscape Concept Plan as kanuka to be retained and revegetation areas. The wording of the Covenant Condition should clarify whether fence lines are to be maintained clear of vegetation (as they are along the southern boundary of Lots 14 to 19, refer to Figure 10 at the back of my evidence) and the Landscape Concept Plan amended to ensure boundary transitions are naturalised in a manner sympathetic to the existing environment.

9 Assessment of the Objectives and Policies of the Operational District Plan

105. An evaluation of the proposed plan change was undertaken to assess the appropriateness and consistency of the proposal with the Objectives and Policies of the Operational District Plan relating to Part 4.1.4, Objective 1 - Nature Conservation Values and Part 20, Open Space Objective 1.

District Wide Issues - 4.1.4. Objectives and Policies

Objective 1 – Nature Conservation Values

The protection and enhancement of indigenous ecosystem functioning and sufficient viable

habitats to maintain the communities and the diversity of indigenous flora and fauna within the District.

Improved opportunities for linkages between habitat communities.

106. Good connectivity with surrounding habitats and communities of similar composition are confirmed to exist within the area of Open Space. (refer paragraphs 24, 49 above). This would not be substantially improved by the re-zoning and subsequent development.

1.1 To encourage the long-term protection of indigenous ecosystems and geological features

107. The kanuka shrubland and short tussock grassland in the Open Space zone is currently protected, but lack of custodial management has resulted in some degradation through conifer and rabbit infestations over the past 14 years.

108. If rezoning was considered appropriate on grounds other than ecological, the recommended reduction in the area to be rezoned, coupled with revegetation planting could result in a net gain of about 3,665 m² (paragraph 97) for Lots 1 to 12; and a gain of up to 3,482 to m² or a loss of about 308 m² for Lots 7 to 12. All other options considered would result in net losses of indigenous vegetation and habitat, and a potential reduction of ecological integrity in revegetated areas. The remaining Open Space may be better protected under the proposal if control is undertaken following amended covenant conditions, but unprotected short tussock grassland community would be cleared or more substantially modified under the proposal.

109. The proposed protection of approximately 4,500 m² of existing kanuka shrubland consists of narrow clusters on the boundary of the area proposed to be re-zoned from Open Space to Low Density Residential, some of which may be cleared for fencing creating some uncertainty regarding the ability of the covenants to protect the remaining vegetation. The proposed covenant conditions as they are currently worded may not therefore be able to ensure protection of the values affected by the Plan Change in perpetuity as suggested by the applicant.

110. The proposed revegetation areas could potentially introduce species that do not naturally occur in the vicinity of the site and are therefore ecologically incongruent. These species should be restricted to garden landscape areas within private allotments with Revegetation Areas containing more ecologically appropriate communities planted in the Open Space area to be vested in Council. Vesting these areas in Council following their establishment (i.e. they would continue to mature without further protection and release from competition), would improve the long term protection of the remaining and reinstated indigenous vegetation.

111. If the re-zoning is considered appropriate on grounds other than ecological, the adoption of the recommendations provided in sections 7 and 8 above, would result in a reduction of the area to be rezoned, and **would increase the Plan Change's consistency with and support of this Policy.**

1.2 To promote the long term protection of sites and areas with significant nature conservation areas.

112. The site contains values of some local and possibly District significance under the criteria assessed **by the applicant's ecologist** and with which I agree. The existing zoning protects these values, except that custodial management appears to have been limited over the past 14 years. If vested in Council, I assume this protection would be improved with the ongoing removal of conifers at the very least. As stated in paragraph 50, enhancement by community or Council led groups is not precluded now or under the re-zoning proposal.

113. However, under the current proposal, indigenous vegetation within Lots 5, 6 and 13 to 24 would be subject to substantial clearance offset by the protection of existing small clusters of kanuka and proposed revegetation which may result in variable communities ranging from an extension of the remaining kanuka shrubland and short tussock grassland to the introduction of beech forest communities not naturally associated either historically or currently with the affected environment. The balance of the Open Space which supports a larger proportion of the kanuka shrubland is proposed to be vested in Council. If this occurs, the ability to protect the remaining vegetation in the Open Space zone in perpetuity may be improved.

114. This policy is therefore only weakly supported for the site affected by the proposal. If a rezoning is approved, implementation of this policy would be more effectively improved by

- a) the adoption of the recommendations in sections 7 and 8 above,
- b) in particular, by the exclusion of Lots 5, 6, 13 to 24, with Lots 13, 18, 20 to 24 and access to them being the most critical of these; and
- c) the amendment of the Stanford Landscape Concept Plan to include the species listed in Table 1, provided at the back of my evidence.

1.4 To encourage the protection of sites having indigenous plants or animals or geological or geomorphological features of significant value.

115. I can confirm the presence of prostrate bluegrass (*Connorchloa tenuis*), and cushion Pimelea (*Pimelea sericeovillosa subsp. pulvinaris*), both are At Risk – declining species³¹ within the area

³¹ de Lange PJ, Rolfe JR, Champion PD, Courtney SP, Heenan PB, Barkla JW, Cameron EK, Norton DA,

proposed for re-zoning and the adjacent open space. The cushion Pimelea is in Lot 20, while the prostrate bluegrass is more widespread within Lots 5, 6, 10, 11, 12, 13 and 20. The current zoning offers some protection to these species, while the proposal would result in their loss or incorporation within revegetation areas that alter the habitat in which they have persisted, potentially shading them out. This policy is not well supported by the proposal.

1.5 To avoid the establishment of, or ensure the appropriate location, design and management of, introduced vegetation with the potential to spread and naturalise; and to encourage the removal or management of existing vegetation with this potential and prevent its further spread.

116. The Ecology Assessment included photographs of recent control work however the mechanisms to enforce control of these species within the open space following the previous subdivision have not been entirely successful. I have suggested an amendment to the covenant conditions for initial and ongoing control of invasive woody weeds in paragraph 99 above.

117. To improve the effectiveness of covenant condition 13 it is recommended that it be amended to require the land owner, in this case PBJV, to remove conifers and broom from the Open Space zone and maintain this control until such time as it is vested in Council; allotments and road reserves shall be kept free of these weeds in perpetuity.

1.7 To avoid any adverse effects of activities on the natural character of the District's environment and on indigenous ecosystems; by ensuring that opportunities are taken to promote the protection of indigenous ecosystems, including at the time of resource consents.

118. In my opinion, the protection of existing indigenous ecosystems at this site will not be significantly improved under the proposed re-zoning and planned revegetation. The values are currently protected although as previously mentioned, custodial stewardship has been poor. However, if rezoning is approved, the adoption of recommendations restricting subdivision to Lots 1 to 4 and 7 to 12 would potentially continue to protect and may achieve some enhancement through the net gain of about 3,665 m² of indigenous vegetation.

119. Approximately 11,216 to 16,100 m² of vegetation would be cleared or vulnerable to clearance. The revegetation as it is currently proposed would result in approximately 11,543 m² of new planting primarily but not exclusively for screening purposes. Under the current proposal, I estimate that there may be a net loss of about 4,648 m², not a *net positive ecological outcome*

Hitchmough RA. 2013: Conservation status of New Zealand indigenous vascular plants, 2012. Department of Conservation, Wellington, New Zealand. <http://www.doc.govt.nz/publications/conservation/nz-threat-classification-system/nz-threat-classification-system-lists-2012-14/>

as suggested by the applicant.

120. Planting could currently incorporate a range of landscape interpretations including the use of species not naturally present in the area of the Plan Change; planting designs may achieve varying establishment success beyond receipt of 224c certificates which, under the current wording of the covenant conditions only requires planting, not establishment. For this reason it is considered that the Objectives are not appropriately supported and the *ecological integrity* of the Plan Change area may not necessarily be *improved* as suggested by the applicant.

121. If re-zoning and subdivision were considered appropriate for reasons other than ecological, support for and consistency with this policy could be substantially improved by the adoption of my recommendations to restrict subdivision to no more than Lots 1 to 4 and 7 to 12 as described above.

Operative District Plan - Part 20 Open Space - Objective 1, Policies 1.2

Objective 1 and Policy 1.2 aim ***“to protect and maintain natural ecological values and the open appearance of the Open Space Zone” “by protecting, and where appropriate enhancing, ecological values and indigenous vegetation”***.

122. The objective and policy are supported by the current zoning although custodial stewardship needs to improve control of conifers, animal pests and the removal of wasteland weeds where fill has been deposited in the open space. In the event that the plan change application is declined, this area should be reinstated by the removal of fill and re-establishment of grassland and scattered kanuka.

123. The proposal in its current form will reduce the area of Open Space, create a fenced, densely vegetated margin using a mixture of indigenous species, some of which are not naturally present in the vicinity of the site. Recommendations in sections 7 and 8, address the opportunity, should the Plan Change be at least partially successful, for the establishment of a more graduated, clustered transition between Open Space where naturalness may be preferred, and private allotments where screening is important, and landscape design desirable. The recommendations provide advice regarding how this transition could be more effectively managed.

124. The proposal does not currently include any provision for the maintenance of existing or enhancement of the ecological values of the remaining open space beyond vesting in Council.

Recommended amendments to covenant conditions in section 8 address this to improve outcomes compared to the current proposal.

125. The applicant proposes that

- a) The balance of the reduced Open Space could be vested with Council after the network of tracks is expanded and a memorial to the late Bob Robertson are constructed,
- b) No planting or ecological enhancement of the areas around the memorial or tracks are proposed offering little support for Policies 1.2 and 1.3,
- c) Coniferous weeds and European broom are controlled within the allotments (the applicant is silent on the need to control animal pests).

126. My recommendations would improve the support for and consistency with Policy 1.5 (*ensuring effective maintenance, including pest control, is undertaken in the Open Space*), however this is entirely contingent upon Council accepting the Open Space, and ongoing maintenance of the site after vesting.

10 Conclusion

127. In conclusion, I consider that the Status Quo (i.e. declining the Plan Change) protects the ecological values and is a better way to achieve Part 2 of the RMA. The current zoning protects the ecological values identified within the Open Space but custodial management needs improvement. The current zoning and vesting in Council as intended does not preclude community engagement in restoration and management projects.

128. The adjoining subdivision has provided for social and economic well-being, the Open Space contains areas of significant vegetation that should be managed such that it is sustained through improved custodial stewardship (weed control at the very minimum, rabbit control if possible and supplementary planting).

129. It is my view that the proposal as it stands will not sufficiently enhance, protect, maintain or safeguard **the site's biodiversity** or deliver *"improved ecological integrity, diversity, function and connection between existing patches of habitat, and a net positive ecological outcome"*. Rather, it will result in a net loss of kanuka and depleted fescue grassland at this site where it can currently be readily seen and experienced as a local example of a once more widespread community, in need of improved management; an opportunity to "halt the decline".³²

³² New Zealand Biodiversity Strategy (2000) Ministry for the Environment, Wellington. Goal Three.

130. I do not agree with the view of Mr Bramley that the sustainable management of the kanuka shrubland can be better provided by the introduction of diversity not currently (or likely to have been historically) present in order to initiate succession towards forest; when it is kanuka and short tussock grassland which characterises the acutely threatened environment of the site and the lowland valley floors of the Pisa and western Lindis Ecological Districts.
131. If re-zoning is considered appropriate on grounds other than ecological, then a reduction in the proportion of Open Space would occur that would reduce options for the provision of recreational amenities without further loss of indigenous vegetation.
132. If rezoning is deemed an appropriate use of the site, it is my view that the scale of the subdivision should be reduced, and restricted to no more than Lots 1 to 12; these should be reconfigured and reduced in size with proposed replanting for ecological enhancement restricted to the species identified in Table 1. The boundary between private allotments and Open Space should be planted with species naturally occurring in the area and achieve a natural transition with the enhancement or offsetting plantings on Open Space land to be vested in and maintained by Council. Ecologically incongruent species should be restricted to gardens within the subdivision.
133. Net gains of up to 3,665 m² appear to be achievable by implementing the recommended amendments set out in Section 8; net losses of up to about 4,648 m² are likely to result if the re-zoning and subdivision proceeds as proposed.
134. If re-zoning to facilitate subdivision is allowed Covenant conditions or Plan rules should be amended as recommended to provide better assurance in relation to the benefits of ecological offsets (revegetation) and compensation (tracks) and a more effective and practically implementable division of private and Open Space management obligations.



Figure 2: Fescue tussock grassland, *Carmichaelia petriei* and kanuka in the vicinity of Lot 21 to 22 – photo taken by D Palmer 10th April 2002. Compare with Plate 7 in the Ecology Report provided by the applicant.



Figure 2a: Photo taken in Lot 21 by D Palmer 8 June 2016



Figure 2b: Photo taken to the east in Lot 23 8/6/2016; pine needles and felled conifer.



Figure 3: Fescue tussock grassland and kanuka shrubland, view down the proposed road to Lots 20 to 24, view towards Lots 25 and 26. Photo taken by D Palmer 10th April 2002. Compare with Plate 4 of the Ecology Assessment provided by the applicant.



Figure 4: Red beech with a forked trunk and bushy form present on the Corner of Rowan Drive and Hunter Crescent.



Figure 5: Red beech planted too close to a house with a *Phormium tenax* hedge along the street frontage. 134 Hunter Crescent.



Figure 6: Hedge of *Griselinia littoralis* (broadleaf), *Chionochloa rubra* (Red tussock) and *Pseudopanax crassifolius* (lancewood) at the intersection of Infinity Drive and Valley Crescent.



Figure 7: 29 Infinity Drive – *Pittosporum tenuifolium*, Kanuka and *Pittosporum* suffering from what appears to be spray or frost damage.



Figure 8: 9 Clutha – *Cordyline australis*, *Griselinia littoralis*, *Pittosporum tenuifolium*, *Pseudopanax crassifolius*, *Poa cita*, *Phormium tenax*



Figure 9: *Pittosporum tenuifolium* hedge with *Plagianthus regius* trees – Infinity Drive – Community facility.



Figure 10: Fenceline boundary of the existing subdivision view towards proposed Lots 19 and 17. A clearance margin of several metres more than conservative calculations of potential loss have anticipated.

Table 1 – Species recommended for inclusion in the Landscape Design Plan for Open Space and Allotment revegetation, enhancement or remediation planting

Species name	Common Name	Community		
		Shrubland	grassland	Screening/ Garden Landscapes
<i>Anthosachne solandri</i>	Blue wheat grass			
<i>Aristotelia serrata</i> +	Wineberry, makomako			(F) Low/ Mod
<i>Carmichaelia petriei</i>	native broom			
<i>Chionochloa macra</i> ***	slim snow tussock			
<i>Chionochloa rigida</i>	Narrow leaved snow tussock			
<i>Coprosma crassifolia</i>				
<i>Coprosma intertexta</i>				
<i>Coprosma lucida</i> +	shining karamu			
<i>Coprosma petriei</i>	Turfy Coprosma			
<i>Coprosma propinqua</i>				
<i>Coprosma virescens</i>				
<i>Corokia cotoneaster</i>				
<i>Festuca novae-zelandiae</i>	Hard tussock			
<i>Fuchsia excorticata</i> +	tree Fuchsia			(F) Low
<i>Fuscospora cliffortioides</i> ***	Mountain beech			
<i>Fuscospora fusca</i> +	Red beech			
<i>Griselinia littoralis</i> ***	Broadleaf			(F) Low
<i>Hoheria glabrata</i> ++	Mountain lacebark			(F) Low/ Mod
<i>Hoheria lyallii</i>	Mountain lacebark			(F) Low/ Mod
<i>Kunzea</i> spp.*	Kanuka		sparse	(F) High
<i>Melicytus alpinus</i>	porcupine shrub			
<i>Muehlenbeckia axillaris</i>	Creeping pohuehue			
<i>Myrsine divaricata</i>				
<i>Olearia avicenniifolia</i>	Mountain akeake			
<i>Olearia hectorii</i> **	Hector's Tree daisy			
<i>Olearia lineata</i>				
<i>Olearia nummulariifolia</i>				
<i>Olearia odorata</i>				
<i>Phormium cookianum</i> ***	Mountain flax			(F) Mod/ High

<i>Phyllocladus alpinus</i> +	Mountain celery pine			
<i>Pimelea aridula</i>				
<i>Pittosporum tenuifolium</i> ***	kohuhu			(F) Mod
<i>Plagianthus regius</i> **	Mountain ribbonwood			(F) Low/ Mod
<i>Poa cita</i>	Silver tussock			
<i>Podocarpus laetus</i>	totara			(F) Mod/ High
<i>Pseudopanax colensoi</i> var. <i>ternatus</i> +	Three finger			
<i>Sophora microphylla</i>	kowhai			
<i>Teucrium parvifolium</i>	<i>Teucrium</i>			
<i>Veronica (Hebe) odora</i>	Hebe			
<i>Veronica (Hebe) salicifolia</i> ***	koromiko			(F) Low/ Mod
<i>Veronica (Hebe) subalpina</i> ++	Hebe			
<i>Veronica (Leonohebe) cupressoides</i>	Cypress hebe			

* A review of *Kunzea* has been recently published; *Kunzea* planted at the site should be eco-sourced from local populations.

** As specimen trees – will do best in well drained alluvial soils

*** Species considered to be ecologically incongruent with the surrounding indigenous vegetation communities included in Section 'E' – Exposed to sun, frost and wind

+ Species considered to be ecologically incongruent with the surrounding indigenous vegetation communities included in Section 'S' – Sheltered amongst Kanuka, [requiring shade – *my insertion*];

++ Species considered to be ecologically incongruent with the surrounding indigenous vegetation communities included in Section 'A'; *Hoheria glabrata* has a natural distribution that is mostly west of the main divide, *Hoheria lyallii* has a distribution that is mostly east of the main divide.

(F) Fogarty, L.G. (2001): A flammability guide for some common New Zealand native tree and shrub species. Forest Research, Rotorua in association with the New Zealand Fire Service Commission and National Rural Fire Authority, Wellington. Forest Research Bulletin No. 197, Forest and Rural Fire Scientific and Technical Series. Report No. 6, 18p. – Flammability classes are given as Low, Moderate or High.

Attachment 1

Experience relating to Vegetation and Fire Management

When working for the Department of Conservation, I studied:

- 2001 Rural Fire Officer duties, NZQA, Telford Rural Polytechnic
- 2001 Effects of the Fire Environment on Vegetation Fire Behaviour, NZQA, Telford Rural Polytechnic
- 1998 Fire Training Simulator – Crew Boss - NZ Rural Fire Authority- Department of Conservation, Dunedin
- 1996 National Standard Course for Crew Boss -To qualify as a Rural Fire Crew Boss, National Rural Fire Authority, Queenstown Field Centre

While working for DOC I assisted in firefighting efforts as a crew member at the Boundary Creek fire on the slopes east of Lake Wanaka and assisted Fire Bosses with fires on the flanks of the Remarkables, and the vegetation fire in Dublin Bay, also in the Wanaka Area.

I also studied fire behaviour when obtaining my earliest professional qualifications in South Australia and assisted in undertaking a controlled burn in the Adelaide Hills in the 1980s, and was in this area when the Ash Wednesday fires caused devastating destruction in the Adelaide Hills in 1983.