

**QUEENSTOWN-LAKES DISTRICT COUICIL
PROPOSED DISTRICT PLAN HEARING – STREAM 3**

IN THE MATTER

of a hearing on submissions to the Proposed District Plan (Stream 3) pursuant to clause 8B of the First Schedule to the Resource Management Act 1991

NEW ZEALAND TUNGSTEN MINING LIMITED

Submitter

**EVIDENCE OF CAREY VIVIAN
(PLANNER)
17 June 2016**

1. Introduction

- 1.1 My name is Carey Vivian. I hold the qualification of Bachelor of Resource and Environmental Planning (Hons) from Massey University. I have been a full member of the New Zealand Planning Institute since 2000. I am a director of Vivian and Espie Limited, a resource management, urban design and landscape planning consultancy based in Queenstown. I have been practising as a resource management planner in twenty-one years, having held previous positions with Davie Lovell-Smith in Christchurch; and the Queenstown Lakes District Council (QLDC or the Council), Civic Corporation Limited, Clark Fortune McDonald and Associates and Woodlot Properties Limited in Queenstown.
- 1.2 I have read the Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2014 and agree to comply with it. This evidence is within my area of expertise, except where I state that I am relying on information I have been given by another person. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed herein.

2. Purpose and Scope of this Evidence

- 2.1 The purpose of this evidence is to assist the Hearings Panel on matters within my expertise of resource management planning in relation to the submission by NZ Tungsten Mining Limited (NZTML) (519/1287) on the Proposed District Plan.
- 2.2 This evidence is restricted to the parts of the submissions which relate to Chapter 26 Historic Heritage. I have previously presented evidence on Chapter 3 Strategic Direction, Chapter 6 Landscapes and Chapter 21 Rural Areas for NZTML. This evidence is supported by that earlier evidence and relies on my recommended provisions rather than the Council's latest position on those chapters. To that extent, I recommend the commissioners who did not sit on those earlier hearings should read my earlier evidence as presented (and recorded on the Council website).

3. Background

- 3.1 I note for the record in preparing this evidence I have had the benefit in reading the section 42A reports produced by Ms Jones.

3.2 In preparing this evidence I am mindful of the amended mandatory legal criteria the Panel must consider as set out in *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC 55. This includes:

- (a) Accords with section 75(1) and assists the Council to carry out its functions (s 31) so as to achieve the purpose of the Act (s 72).
- (b) Gives effect to National Policy Statements that are relevant (section 73(3)(a));
- (c) Gives effect to the Otago Regional Policy Statement (section 75(3)(c));
- (d) Has had regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register (section 74(2)(b));
- (e) Takes into account any relevant planning document recognised by an iwi authority;
- (f) Does not have regard to trade competition (section 74(3)).

3.3 I confirm, to the best of my knowledge, that (a) and (c) are of most relevance hearing of these particular chapters of the PDP. I confirm the recommendations contained in this evidence all assist the Council to carry out its functions so as to achieve the purpose of the Act.

4. NZTML's Submission

4.1 NZTML have sought a number changes to the PDP to recognise the importance of exploration and mining activities within the District. NZTML hold two exploration permits and a prospecting permit within the district, and have been exploring since 2001. I understand NZTM's aim was, and still is, to undertake mining for scheelite and gold, and re-open the mines and operate them in an environmentally and socially responsible manner. I also understand that NZTM expect to provide and leave an example of a safe and accessible underground mine for visitor appreciation.

4.2 NZTM currently have a resource consent to undertake exploration drilling in the Mt. Alfred area and currently have a resource consent application being processed by Council to conduct drilling within the Whakaari Conservation Area (RM151033 prepared by Davis Consulting Limited). This area is included in the Glenorchy Heritage Landscape under the Proposed District Plan.

4.3 In my evidence on Chapter 21 Rural Areas I detailed the Otago Regional Policy Statement (ORPS) issues, objectives and policies relevant to mining. Rather than repeat all of provisions, I have instead focused in the provisions relevant to the heritage, which need to be balanced against the mining objectives and policies.

- 4.4 The ORPS states the following in terms of the regional economy and the importance of mining (among other things) has played in the Region's development:
- 4.5 Objective 9.5.4 seeks to minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating significant irreversible effects on heritage values. Reference to Structures in this Objective is relevant to NZTML submission as they have sought recognition of Mining Buildings, in much the same way as Farm Buildings are recognised in the PDP.
- 4.6 Policy 9.5.6 seeks to recognise and protect Otago's regionally significant heritage sites through identifying regionally significant heritage sites in consultation with Otago's communities and developing means to ensure those sites are protected from inappropriate subdivision, use and development.
- 4.7 The Proposed Otago Regional Policy Statement (PORPS) also contains policies relevant to the NZTML submission. The most relevant is 4.2 which states:

Objective 4.2

Historic heritage resources are recognised and contribute to the region's character and sense of identity

4.2.1

Recognising heritage themes

Recognise the following elements as characteristic or important to Otago's historic heritage:

- a) Residential and commercial buildings;
- b) Māori cultural and heritage values;
- c) 19th and early 20th century pastoral sites;
- d) Early surveying, communications and transport, including roads, bridges and routes;
- e) Early industrial heritage, including mills and brickworks;
- f) Gold mining systems and settlements;
- g) Dredge and ship wrecks;
- h) Coastal heritage, particularly takata whenua occupation sites and those associated with early European activity such as whaling;
- i) Memorials.

Policy 4.2.2

Identifying historic heritage

Identify historic heritage places and areas of regional or national significance and their values, using the following attributes, detailed in Schedule 7:

- a) Physical values, including:
 - i. Archaeological information;
 - ii. Architecture;
 - iii. Technology;
 - iv. Scientific;
 - v. Rarity;
 - vi. Representativeness;
 - vii. Integrity;

- viii. Vulnerability;
- ix. Context or group;
- b) Historic values, including:
 - i. People;
 - ii. Events;
 - iii. Patterns;
- c) Cultural values, including:
 - i. Identity;
 - ii. Public esteem;
 - iii. Commemorative;
 - iv. Education;
 - v. Takata whenua;
 - vi. Statutory recognition.

Policy 4.2.3

Managing historic heritage values

Protect and enhance the values of places and areas of historic heritage, by:

- a) *Recognising that some places or areas are known or strongly suspected of containing archaeological sites, wāhi tapu or wāhi taoka which could be of significant historic or cultural value; and*
- b) *Applying these provisions immediately upon discovery of such hitherto unidentified archaeological sites or areas, wāhi tapu or wāhi taoka; and*
- c) *Avoiding adverse effects on those values which contribute to the area or place being of regional or national significance; and*
- d) *Avoiding significant adverse effects on other values of areas and places of historic heritage; and*
- e) *Assessing the significance of adverse effects on those values, as detailed in Schedule 3; and*
- f) *Remediating, when adverse effects on other values cannot be avoided; and*
- g) *Mitigating when adverse effects on other values cannot be avoided or remediated; and*
- h) *Encouraging the integration of historic heritage values into new activities; and*
- i) *Enabling adaptive reuse or upgrade of historic heritage places and areas where heritage values can be maintained.”*

Definitions

4.8 Mr Barr has addressed that part of NZTML submission that deals with the definitions of Mining Activity, Prospecting and Exploration in paragraphs 21.11 to 21.17 of the 42A report on Chapter 21 Rural Areas. Following the conclusion of those hearings Mr Barr produced a Right of Reply (dated 3 June 2015) addressing the matters raised in evidence. While I appreciate that Right of Reply is not binding on the Commission, I do consider it is useful to set out Mr Barr’s latest thoughts having heard the Chapter 21 evidence, to give context to NZTML submission on Chapter 26.

4.9 Mr Barr recommends the following definitions:

Mining Activity

- (a) *means operations in connection with mining for any mineral; and*
- (b) *includes, when carried out at or near the site where the mining is undertaken,—*

- (i) *the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and*
- (ii) *the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and*
- (iii) *the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and*
- (iv) *the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations.*

Mineral extraction, extraction or extractive activities shall have the same meaning.

Mineral Prospecting

Means any activity undertaken for the purpose of identifying land likely to contain exploitable mineral deposits or occurrences; and includes the following activities:

- *Geological, geochemical, and geophysical surveys;*
- *The taking of samples by hand or hand held methods;*
- *Aerial surveys.*

Mineral Exploration

Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

4.10 I also note that as part of the Chapter 21 Rural Areas hearing I also recommended a definition be added for **Mining Buildings**. Mr Barr addressed the request to have a definition of Mining Buildings in paragraph 5.10 of his Right of Reply where he stated “*While I acknowledge that mining buildings are necessary as part of mining activities, I consider that it is incongruous with the overall scheme of the Rural Zone to permit mining buildings. This is especially where mining requires resource consent as a discretionary activity, with the exception of very small scale mining, exploration, and prospecting which is permitted or controlled.*” Firstly, the status of an activity does not determine whether or not an activity should be separately defined. There are many activities which require a discretionary activity under the Rural Area rules which are separately defined, including some Farm Buildings. Secondly, NZTML were not asking for Mining Buildings to be a permitted activity in the Rural Area without conditions. The evidence I presented at the Stage 2 hearing recommended that Mining Buildings were permitted subject to meeting the following standards (and any non-compliance with those standards requiring a restricted discretionary resource consent):

- “21.5.18.1 The landholding is greater than 100ha; and*
- 21.5.18.2 The density of all buildings on the site, inclusive of the proposed building(s) will be less than one farm building per 50 25 hectares on the site; and*
- 21.5.18.3 Is not If located within an Outstanding Natural Feature (ONF) is less than 3.5 metres in height and the ground floor area is not greater than 45m²; and*

- 21.5.18.4 *If located within the Outstanding Natural Landscapes (ONL) is less than 4 metres in height and the ground floor area is not greater than 100m²; and*
- 21.5.18.5 *Is less than 600 masl; and*
- 21.5.18.6 *If located within the Rural Landscapes (RLC), is less than 5m in height and the ground floor area is not greater than 300m²; and*
- 21.5.18.7 *Buildings shall not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.”*

- 4.11 The Mining Buildings would also need to comply with Rule **25.1.19 External Colours of Buildings** and **25.1.20 Building Height** to retain permitted activity status.
- 4.12 This issue is pivotal to NZTML submission. Without small scale buildings to house equipment, machinery and people it will be very difficult, if not impossible, to undertake mining safely in the District. This is directly relevant to the issues at hand in this hearing, as many of the heritage buildings sought to be protected by the Council (et al) are only there due to past mining activities.
- 4.13 An alternative approach to this issue could be to broaden the definition of Farm Building to include buildings used for mining activities. While this would essentially achieve the same outcome as I recommended in my Stage 2 evidence, this may get around Mr Barr's concern that permitting some mining buildings is *“incongruous with the overall scheme of the Rural Zone”*. Wording could be as follows:

“Means a building (as defined) necessary for the exercise of farming activities (as defined) and mining activities (as defined):
(a) Excludes buildings for the purposes of residential activities, home occupations, factory farming and forestry activities.
(b) Excludes visitor accommodation and temporary accommodation.”

- 4.14 I consider such an amendment would be in scope of NZTML submissions.

Heritage Landscapes

- 4.15 The PDP contains four HL that are spatially defined in Chapter 26 and the Planning Maps. I confirm each of the four HL are entirely located within the Rural Area and entirely located within an ONL.
- 4.16 NZTML submission is only concerned with the Glenorchy HL (GHL) as spatially defined on Proposed Plan 9 (copied and cropped below).



4.17 I note for the record that the PDP contains a definition of Heritage Landscape as follows:

“Means land surfaces, (which are defined by their value and significance to a group in society) that have been modified by human activity and define significant past patterns of land use, relationships and experiences of humans with their surroundings, which may include cultural, spiritual, historic, aesthetic, ecological and scientific values. Heritage landscapes may encompass natural terrain, physical structures and processes, archaeological sites or remains, pathways, habitats, the context and setting of these areas and cultural meaning (beliefs and practices, histories and myths) with elements of these overlaying one another over time.”

4.18 I note that the concept of Heritage Landscapes were introduced into the ODP by way of Plan Change #3 in 2004. That Plan Change was promoted on the basis that *“significant heritage landscapes throughout the District are not recognised or provided for in the Partially Operative District Plan. Section 13 currently only provides protection of individual features and precincts (cluster/group of heritage buildings) as opposed to a heritage landscape, which is generally made up of many different interconnecting layers.”* As stated in Ms Jones’ section 42A report, the Heritage Landscapes in the ODP contain objectives and policies, but no specific rules.

4.19 I also note the Quality Planning Website states the following with respect to Heritage Landscapes:

“The RMA does not explicitly refer to the terms cultural and heritage landscapes. Further, the reference to a wider historical and cultural landscape was replaced with ‘wider historical and

cultural area' as criteria for inclusion on the New Zealand Heritage List/Rārangī Kōrero. Consequently, local authorities need to ensure that any initiative to identify and protect cultural and heritage landscapes is within the scope of the legislation.

Generally cultural and heritage landscapes are large areas with layers of interrelated values and features, and can have many connected communities. The features may include individual places, linear elements (ie, tracks) and areas. The setting or curtilage of these landscapes is of particular importance. Many historic areas and precincts could be described as cultural or heritage landscapes. Examples include Otatara Pa, Lyttelton Historic Area, Old Dunstan Road, Oamaru Historic Area, Denniston Mine, and the Lower Nevis Valley Historic Area.

Best practice processes for the identification and protection of historic places, as outlined above, also apply to cultural and heritage landscapes. This will include defining the place, establishing geographical boundaries, consulting communities, preparing statement(s) of significance and careful design and implementation of appropriate incentives and rules. Often non-regulatory methods will be highly significant for cultural and heritage landscapes, particularly to inform the public about the values of the place. Denniston Mine, near Westport, is a good example of how a heritage landscape can be designed to provide improved historic information and public access.”

- 4.20 I confirm that the boundaries of the GHL in the ODP appear to be identical to that proposed in the PDP.

Relationship of the Rural Area provisions to the Heritage Landscapes (HL)

- 4.21 Rule 26.4.1 states

“26.4.1 District Wide Rules

Attention is drawn to the rules elsewhere in the Plan that may apply in addition to the rules in this chapter. Where rules are breached in those other chapters, then resource consent will be required. All provisions referred to are in the Operative District Plan, unless otherwise stated as Proposed District Plan (PDP). This includes, but is not limited to:

- 26.4.1.1 Earthworks
- 26.4.1.2 Signs
- 26.4.1.3 Town Centres (PDP)
- 26.4.1.4 Protected Trees (PDP)”

- 4.22 Under this provision it appears that there are several tiers of objectives, policies and rules relevant to activities that take place in the HL. These include Chapter 3 Strategic Directions Objectives and Policies, Chapter 6 Landscape Objectives and Policies (including ONL categorisation), Chapter 21

Rural Areas objectives, policies and rules and Chapter 26 Historic Heritage objectives, policies and rules. The words “Attention is drawn to the rules elsewhere in the Plan that may apply in addition to the rules in this chapter” signals to me the Chapter 21 Rural Area rules are equally applicable to the HL.

4.23 From the outset I consider HL an unnecessary overlay in the District Plan. I consider this is unnecessary because:

(i) All of the HL are zoned as Rural Areas and are located within the ONL. Therefore **Assessment Matter 21.7.1.3 Effects on landscape quality and character** is relevant to the consideration of any development within the ONL. This includes:

“In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:

...

c. Appreciation and cultural attributes:

- *Whether the elements identified in (a) and (b) are shared and recognised;*
- *Cultural and spiritual values for tangata whenua;*
- *Historical and heritage associations.”*

(ii) The identification of the ONL’s in the ODP, which Dr Read relies upon in the background report supporting the ONL’s within the PDP, were derived from Part 5.4.2.1 Landscape Assessment Criteria – Process of the ODP (i.e. the Pigeon Bay Criteria) as follows:

“An analysis of the surrounding landscape must include natural science factors (the geological, topographical, ecological and dynamic components of the landscape), aesthetic values (including memorability and naturalness), expressiveness and legibility (how obviously the landscape demonstrates the formative processes leading to it), transient values (such as the occasional presence of wildlife; or its values at certain times of the day or of the year), value of the landscape to Tangata Whenua and its historical associations.”

(iii) Much of the HL land is Crown Land administered by the DOC. Consideration of historic heritage is therefore considered at the time somebody seeks a lease or license to undertake an activity within the Crown land.

(iv) Many of the Features within HL are protected by other rules in the PDP (for example #229, 230 and 231 within the Seffertown Heritage Landscape).

(v) Chapter 21 Rural Area rules control almost all activities that could occur within HL, with the exception of farming.

4.24 However I acknowledge that NZTML submissions did not seek HL be deleted from the PDP. Instead NZTML submission has sought that the Strategic Directions, Landscapes, Rural Areas and Heritage Chapters provide an appropriate balance between protection and use of resources in the District. They also seek acknowledgement that mining can have environmental and ecological benefits in the form of environmental and biodiversity off-setting which should be recognised in the PDP. NZTML has taken the view that these activities should be supported and enabled through clear objectives, policies and rules. I support that approach.

4.25 Ms Jones recommends at Page 26.3 of **Appendix 1** to her section 42A report that **Provision 26.4.1** is amended as follows:

“District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless marked as Operative District Plan (ODP).

| | | |
|--|---|--|
| <i>1 Introduction</i> | <i>2 Definitions</i> | <i>3 Strategic Direction</i> |
| <i>4 Urban Development</i> | <i>5 Tangata Whenua</i> | <i>6 Landscapes</i> |
| <i>24 Signs (18 ODP)</i> | <i>25 Earthworks (22 ODP)</i> | <i>29 Transport (14 ODP)</i> |
| <i>27 Subdivision</i> | <i>28 Natural Hazards</i> | <i>32 Protected Trees</i> |
| <i>30 Utilities and Renewable Energy</i> | <i>31 Hazardous Substances (16 ODP)</i> | <i>35 Temporary Activities and Relocated Buildings</i> |
| <i>33 Indigenous Vegetation</i> | <i>34 Wilding Exotic Trees</i> | <i>Planning Maps</i> |
| <i>36 Noise</i> | <i>37 Designations</i> | |

4.26 In my interpretation, Ms Jones’ recommended provision does not require development in the HL to be assessed against the provisions of the underlying Rural Zone (i.e. Chapter 21). It could therefore be argued that Rural Zone provisions are not relevant to HL and the HL effectively becomes a zone in itself. I have checked with Mr Barr if this was intentional (Ms Jones was not available) and was advised by him that the Chapter 21 Rural Area provisions do apply as the HL are an overlay of the Rural Area zone. With respect that is not what the amended Provision 26.4.1 recommended by Ms Jones says. I also note that the equivalent provision in Chapter 21 Rural Areas does not correspondingly refer to Chapter 26.

4.27 I consider the introduction to this section should be amended as follows to clarify the Rural Area provisions (including ONL objectives and policies) also apply to HL. There may also be benefit in adding other zones relevant to other aspects of historic heritage. I recommend that **Provision 26.4.1** is amended as follows:

“District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless marked as Operative District Plan (ODP).

| | | |
|--|--|---|
| <i>1 Introduction</i> | <i>2 Definitions</i> | <i>3 Strategic Direction</i> |
| <i>4 Urban Development</i> | <i>5 Tangata Whenua</i> | <i>6 Landscapes</i> |
| <i>21 Rural Areas</i> | <i>24 Signs (18 ODP)</i> | <i>25 Earthworks (22 ODP)</i> |
| <i>29 Transport (14 ODP)</i> | <i>27 Subdivision</i> | <i>28 Natural Hazards</i> |
| <i>32 Protected Trees</i> | <i>30 Utilities and Renewable Energy</i> | <i>31 Hazardous Substances (16 ODP)</i> |
| <i>35 Temporary Activities and Relocated Buildings</i> | <i>33 Indigenous Vegetation</i> | <i>34 Wilding Exotic Trees</i> |
| <i>Planning Maps</i> | <i>36 Noise</i> | <i>37 Designations</i> |

Objective 26.5.1

4.28 NZTML submission point **519.53** supports this objective with amendment as follows:

26.5.1

Objective - To recognise and protect maintain and enhance historic heritage features in the District from the adverse effects of land use, subdivision and development.

4.29 NZTML submitted that this provision is at odds with the Heritage NZ Pouhere Taonga Act 2014, which provides for authorities to modify or destroy heritage. Most mining today is done where mining was done in the past. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA.

Discussion

4.30 Ms Jones considers this Objective in paragraph 19.6 of her section 42A report where she states that in her opinion it is appropriate to broaden Objective 26.5.1 to acknowledge that the historic heritage in the District should not only be protected but enhanced. She states that this, arguably, duplicates Objective 26.5.4 but she sees no harm in also including it in this overarching objective.

4.31 Ms Jones does not appear to specifically address the request to include “maintain” in this policy.

4.32 Ms Jones recommends at page 62 of her report that this Objective is amended as follows:

26.5.1
Historic heritage is recognised, protected, and enhanced

- 4.33** I acknowledge that the protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance under s6(f) of the RMA. While protection ‘technically’ includes maintenance and enhancement, it is often interpreted as preservation only (i.e. to keep in the same state). NZTML submission seeks to make it clear that is not the case, as maintenance and enhancement allows for an acceptable level of change (which may include some degradation so long as the overall values are maintained and enhanced). This has only partially been recognised by Ms Jones in recommending the word “enhanced” be included in this Objective, but not the word “maintain”.
- 4.34** In my opinion the inclusion of the word “maintain” in this objective would allow for an acceptable level of work to be added to a feature or place. That is important in my opinion.

Recommendation

- 4.35** I recommend that submission point **519.53** by NZTML is accepted by adopting the amended Objective **26.5.1** as recommended by Ms Jones in **Appendix 1** to her Section 42A report (as quoted above) with the following amendment:

26.5.1
Historic heritage is recognised, protected, maintained and enhanced

Section 32 Matters

- 4.36** I agree with Ms Jones’ section 32 evaluation as contained on Pages 8 and 9 **Appendix 4** attached to her section 42A report. The addition of the word “maintain” in this Objective further strengthens efficiency and effectiveness.

Policy 26.5.1.2

- 4.37** NZTML submission point **519.54** supports this policy with amendment as follows:

“26.5.1.2
Protect, maintain and enhance historic heritage features when managing against adverse effects of land use and development, including cumulative effects, proportionate to their level of significance.”

- 4.38 The NZTML submission states, as worded, this provision is at odds with the Heritage NZ Pouhere Taonga Act 2014, which provides for authorities to modify or destroy heritage. Most mining today is done where mining was done in the past. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA.

Discussion

- 4.39 Ms Jones considers this Objective in paragraph 19.7 of her section 42A report. She states that the wording of the notified Policy 26.5.1.2 is generally appropriate but could be improved by including the concepts of maintenance and enhancement; including subdivision (as per the notified Objective 26.5.1 and section 6(f)); and clarifying that the management of effects must be relative to the values of the feature being considered. Ms Jones recommends at page 26-4 of her report that this Policy is amended as follows:

“26.5.1.2

Protect, maintain, and enhance historic heritage ~~features against~~ while managing the adverse effects of land use, subdivision, and development; ensuring that all including-cumulative effects are considered and that the management of adverse effects is proportionate to the level of significance of the protected feature.”

- 4.40 I note Ms Jones' comment in respect of this policy is potentially at odds with her discussion on Objective 26.5.1 (where she dismisses the word maintenance).
- 4.41 With respect to this policy, I agree with Ms Jones discussion and recommendation.

Recommendation

- 4.42 I recommend that submission point 519.54 by NZTML is accepted in part by adopting the amended Policy 26.5.1.2 as recommended by Ms Jones in **Appendix 1** to her Section 42A report (as quoted above).

Section 32 Matters

- 4.43 I agree with Ms Jones' section 32 evaluation as contained on Pages 8 and 9 **Appendix 4** attached to her section 42A report.

New Policy 26.5.4.4

- 4.44 NZTML submission point 519.55 supports this objective with amendment as follows:
- 4.45 NZTML seeks the addition of a new policy that acknowledges continuing use of an area for the activity that shaped its heritage landscape values (such as farming or mining) can enhance those heritage landscape values if done in a manner that protects historic features and provides a continuum or sequence of those features that includes modern day.
- 4.46 NZTML seeks the following new Policy 26.5.4.4

“Encourage and enable the continuation of the activity or activities that created the heritage landscape in a manner that avoids, remedies, or mitigates adverse effects on significant heritage features, while also allowing for those features to be added to and complemented by modern day examples of the historic activity.”

Discussion

- 4.47 Ms Jones considers this policy in paragraph 16.14 of her section 42A report. Ms Jones states that, in her opinion, it is appropriate to recognise that mining may recommence in the areas identified as heritage landscapes in the future.
- 4.48 Ms Jones recommends at page 62 of her report that this Objective is amended as follows:

“26.5.4.4 Enable the continuation of the mining activities that helped to create the various heritage landscapes, provided the features identified in Section 26.12 are protected and effects on the wider heritage values of the heritage landscape are minimised or remedied.

Note: these features are listed under both the ‘Statements of Significance’ and ‘Key Features to be Protected’ headings.”

- 4.49 Dr Cawte discusses the importance of how current uses of heritage show a lasting connection in the landscape:

“6.5 The GH L is an important heritage landscape created by interdigitating periods of mining. However, importance does not preclude the reuse of heritage places, spaces and areas or the continued use of the area in the manner in which it contributes to the historical and social significance and value. In fact, reuse/continued use is encouraged as a means of effective management and protection and is allowed for in regional and district plans (under the RMA). Similarly, section 26.5.2 of the PDP provides for the sustainable use of historic heritage features.

6.6 *Heritage is not a static quality that has already been “produced” but is an evolving and dynamic quality that responds to the community. In heritage management and protection a desirable situation is one in which the original, or long term occupier maintains a connection to the site. This situation has implications when considering the ongoing viability and management of heritage sites, features and structures. Thus when it comes to modifying that site, impact is balanced with the benefits of maintaining that connection.”*

4.50 I therefore agree with Ms Jones discussion and recommendation to include this policy with the exception that I consider the word minimised should be replaced with mitigated to be more consistent with RMA terminology.

Recommendation

4.51 I recommend that submission point **519.55** by NZTML is accepted by adopting a **New Policy** as recommended by Ms Jones in **Appendix 1** of her Section 42A report (quoted above) with the following amendment:

“26.5.4.4 Enable the continuation of the mining activities that helped to create the various heritage landscapes, provided the features identified in Section 26.12 are protected and effects on the wider heritage values of the heritage landscape are ~~minimised or remedied~~ or mitigated.”

Note: these features are listed under both the ‘Statements of Significance’ and ‘Key Features to be Protected’ headings.”

Section 32 Matters

4.52 I agree with Ms Jones’ section 32 evaluation as contained on Pages 13 and 14 **Appendix 4** attached to her section 42A report.

Policy 26.5.2.1

4.53 NZTML submission point **519.56** supports this objective with amendment as follows:

“Policies 26.5.2.1

Encourage the ongoing economic use of heritage buildings and sites by allowing adaptations and uses that either add to heritage values, or do not permanently adversely affect the heritage values and are in accordance with best practice.”

4.54 The NZTML submission states that the policy is amended to recognise that viable uses for heritage buildings and sites may add to those heritage values.

Discussion

- 4.55 Ms Jones considers this Policy in paragraph 19.13 of her section 42A report. Ms Jones agrees it is appropriate to amend the policy to recognise that viable uses for heritage buildings and sites may actually *add to heritage values*.
- 4.56 Accordingly, Ms Jones recommends at page 26-6 of her report, that this Objective is amended as follows:

“26.5.2.1

Encourage the ongoing economic use of heritage buildings and sites by allowing adaptations and uses that:

- (a) *Are in accordance with best practice; and*
 - (i) *Either enhance heritage values or do not permanently adversely affect heritage values to the extent that the heritage significance of the feature would be reduced, noting that the cumulative effects of incremental change must also be considered;*
- (b) *Improve the viability of the protected feature and/ or improve public health and safety.*
- (c) *Recognise that heritage structures and buildings may need to be modified or reengineered as engineering and safety standards evolve.”*

- 4.57 I consider the adoption of this policy is important in acknowledging change allows for a contemporary appropriate use of heritage that can provide for a social, cultural, environmental and economic benefit to society consistent with the purpose of the RMA.
- 4.58 I therefore agree with Ms Jones’ recommendation with the exception of the words “*Are in accordance with best practice; and*” as that is, in my opinion, ill-defined and adds nothing to the intent of the policy.

Recommendation

- 4.59 I recommend that submission point **519.56** by NZTML is accepted by amending **Policy 26.5.2.1** as recommended to be amended by Ms Jones in her section 42A report (quoted above) with amendment as follows:

“26.5.2.1

Encourage the ongoing economic use of heritage buildings and sites by allowing adaptations and uses that:

- (a) ~~*Are in accordance with best practice; and*~~
 - ~~(i) *Either enhance heritage values or do not permanently adversely affect heritage values to the extent that the heritage significance of the feature would be reduced, noting that the cumulative effects of incremental change must also be considered;*~~
- (b) *Improve the viability of the protected feature and/ or improve public health and safety.*
- (c) *Recognise that heritage structures and buildings may need to be modified or reengineered as engineering and safety standards evolve.”*

Section 32 Matters

- 4.60 I agree with Ms Jones' section 32 evaluation as contained on Pages 9 and 10 **Appendix 4** attached to her section 42A report.

26.12.7 Glenorchy Heritage Landscape (Planning map 9)

- 4.61 NZTML submission point **519.57** supports this provision with amendment as follows:

"The Glenorchy Heritage Landscape (GHL) is significant for its specific scheelite mining activities ~~that extended from the 1880's until the 1980's, which have left a significant group of mine sites and infrastructure, along with a~~ that have produced a sequence of mining evidence that follows the mining cycle which began here in the 1880's and will continue to exist into the future. These activities have produced a complex of sites along with a unique social history of the people who worked there. They in turn, represent the hard won and sometimes fruitless endeavours of a close knit community of miners that spanned a hundred years of mining at Glenorchy and continues to this day. The GHL encompasses the majority of historic mining locations, tracks, cableway and sections of water races that represented a primary scheelite producing area in New Zealand. The combination of private and state-owned mines is also a unique part of the GHL's history in the ubiquitous and contemporary mining industry within the Queenstown Lakes District. Overall, the scheelite mining symbolised by the GHL is of national heritage significance.

It is recognised in this area the GHL retains potential for exploration and mining, and it is appropriate to enable mining in such cases."

- 4.62 The NZTML submission states the GHL retains potential for tungsten exploration and mining. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA 2014 (as discussed in the evidence of Mr Gray in the Stream 2 Hearing in relation to the locational constraints of mining and the important and long history of the area founded upon mining cycles).

Discussion

- 4.63 Ms Jones considers this provision in paragraph 16.16 of her section 42A report and recommends at page 26-59 of **Appendix 1** to her report that this provision is amended as follows:

"The Glenorchy Heritage Landscape (GHL) is significant for its specific scheelite mining activities that extended from the 1880's until the 1980's, which have left a significant group of mine sites and infrastructure, along with a unique social history of the people who worked there. Collectively, these activities left behind a sequence of evidence that follows the mining cycle that began here in the 1880's and which may well recommence at some point in the future. They in turn, The sites within this heritage landscape represent the hard won and sometimes fruitless endeavours of a close knit community of miners that spanned a hundred years of mining at Glenorchy. The GHL encompasses the majority of the key mine sites, tracks, a cableway and sections of water races that represented the primary scheelite

producing area in New Zealand. The combination of private and state-owned mines is also a unique part of the GHL's history in the ubiquitous and contemporary gold mining industry of the Wakatipu Basin. Overall, the scheelite mining history symbolised by the GHL is a unique one of national heritage significance. It is recognised that there is the potential for exploration and mining to recommence in the GHL at some point.

- 4.64 I agree with Ms Jones' recommendation and discussion subject to some minor amendments. The first amendment relates to references that mining "may recommence" in the future. In reliance on Mr Gray's evidence on the Stream 2 hearing I consider more appropriate wording would be "highly likely to recommence". In support of this I note that NZTML hold all the relevant exploration permits for the GHL area (insofar as it relates to Mt Judah) and have applied to the Council for an exploration permit resource consent (which I understand to be a controlled activity and therefore cannot be declined). They have therefore already commenced the mining process. The second amendment relates to the final sentence which stops at the words "at some point". I consider it is important to recognise here, relying on the evidence of Dr Cawte where he states in paragraph 6.5 of his evidence that "heritage is not a static quality that has already been "produced" but is an evolving and dynamic quality that responds to the community", that such recommencement is part of a continued heritage cycle.

Recommendation

- 4.65 I recommend that submission point 519.57 by NZTML is accepted by amending Provision **26.12.7 Glenorchy** as recommended to be by Ms Jones amended in **Appendix 1** of her section 42A report (quoted above) with the following amendments:

"The Glenorchy Heritage Landscape (GHL) is significant for its specific scheelite mining activities that extended from the 1880's until the 1980's, which have left a significant group of mine sites and infrastructure, along with a unique social history of the people who worked there. Collectively, these activities left behind a sequence of evidence that follows the mining cycle that began here in the 1880's and ~~which may well~~ is highly likely to recommence at some point in the Glenorchy area in the near future. The sites within this heritage landscape represent the hard won and sometimes fruitless endeavours of a close knit community of miners that spanned a hundred years of mining at Glenorchy. The GHL encompasses the majority of the key mine sites, tracks, a cableway and sections of water races that represented the primary scheelite producing area in New Zealand. The combination of private and state-owned mines is also a unique part of the GHL's history in the ubiquitous and contemporary gold mining industry of the Wakatipu Basin. Overall, the scheelite mining history symbolised by the GHL is a unique one of national heritage significance. It is recognised that ~~there is the potential for~~ it is highly likely that exploration and mining to will recommence in the GHL at some point in the near future and continue this heritage cycle."

Section 32 Matters

- 4.66 No section 32 evaluation required.

Rule 26.6 - Introduction

- 4.67 NZTML submission point 519.58 supports this introductory provision however seeks it be amended as follows:

"The following tables describe activities, standards and subsequent level of activity for resource consent purposes. ~~Any activity that is not Permitted requires resource consent, The Activity Table specifies when an activity requires a resource consent and any activity that is not specifically identified in a level of activity, but breaches a standard, requires resource consent as a Discretionary activity.~~

The following abbreviations are used in the tables:

*P Permitted C Controlled RD Restricted Discretionary
D Discretionary NC Non Complying PR Prohibited"*

- 4.68 The NZTML submission states that the relationship between the activity table and the standards table has duplication and inconsistency in application. 26.6.15 is not needed as these matters are controlled by Standard 26.6.21.

Discussion

- 4.69 Ms Jones discusses this submission in paragraph 22.2 of her section 42A report where she states the words "*Any activity that is not Permitted requires resource consent*" do not add anything so can be removed.
- 4.70 Ms Jones recommends at page 26-59 of her report that this Objective is amended as follows:

"26.6 Rules

"The following tables describe activities, standards and subsequent level of activity for resource consent purposes.

Any activity ~~that is not Permitted requires resource consent, and any activity that is not specifically identified in a level of activity, but breaches a standard, requires resource consent as a Discretionary activity.~~

The following abbreviations are used in the tables: ..."

- 4.71 I agree for the reasons stated in the submission.

Recommendation

4.72 I recommend that submission point **519.58** by NZTML is accepted by amending Provision **26.6 Introduction** as recommended by Ms Jones in **Appendix 1** to her section 42A report (as quoted above).

Section 32 Matters

4.73 No section 32 evaluation required.

Table 6 – Rule 26.6.21

4.74 NZTML submission point **519.59** seeks amendment to this Rule as follows:

| Table 6 | Activity Standards – Heritage landscapes | All Landscapes |
|----------------|---|-----------------------|
| 26.6.21 | <ul style="list-style-type: none"> • Development in heritage landscapes • Earthworks over 2000m³ (but excluding farm track access, fencing, firebreaks, and public use tracks, <u>exploration, and prospecting</u>) • Buildings and structures over <u>510</u>m² in footprint. • Subdivision. • Forestry. • Removal or destruction of any heritage feature that contributes to the values of the heritage landscape and is referred to in the statement of significance. | D |

4.75 The NZTML submission states that the standard as proposed is too broad, unspecific and not effects based.

Discussion

4.76 Ms Jones considers this Objective in paragraph 16.15 of her section 42A report. Ms Jones considers there was a drafting error in that Rule 26.6.21 refers to any heritage feature referred to in the Statement of Significance and makes no mention of those listed under the separate sections entitled "key features to be protected" thus arguably rendering that section irrelevant.

4.77 Ms Jones continues that it is clear from the submissions that the submitters anticipate the key features would be captured by Rule 26.6.21 otherwise they would not have sought amendments to those sections. While she sees considerable merit in applying Rule 26.6.21 to the 'key features to be protected' she has not recommended this in the revised chapter as she is not satisfied that the

submissions provide sufficient scope to do so. I disagree insofar as 26.6.21 relates to the GH. I consider there is scope under NZTML submission to correct this error given, as Ms Jones points out, NZTML submitted on Rules 26.6.21, 26.12.8 and 26.12.9 identifying in each of those cases raising issues of certainty and application of the rules to the GH. However I have not reviewed the submissions in relation to other HL. I consider the best way is to separate the GH from the other HL as I have recommended below.

4.78 Alternatively I note the Commission may have scope to correct this error via clause 16(2) of the First Schedule to the RM Act in relation to all HL.

4.79 Ms Jones recommends at page 26-59 of Appendix 1 attached to her 42A report that this Rule be amended as follows:

| Table 6 | Activity Standards – Heritage landscapes | All Landscapes |
|----------------|--|-----------------------|
| 26.6.21 | <ul style="list-style-type: none"> • Development in heritage landscapes • Earthworks over 200m³ (but excluding farm track access, fencing, firebreaks, and public use tracks) • Buildings and structures over 510m² in footprint. • Subdivision. • Forestry. • Removal or destruction of any heritage feature that contributes to the values of the heritage landscape and is referred to in the statement of significance. <p><u>Note: If intending to destroy or modify or cause to be destroyed or modified an archaeological site, an Authority will be required from Heritage New Zealand pursuant to the HNZPTA 2014,10 and if the archaeological site is listed in 26.10 of the District Plan then resource consent may also be required under Table 5 (rules 26.6.18 - 26.6.21)</u></p> | D |

4.80 I agree with Ms Jones' recommendation to delete the words "Development in heritage landscapes" for the reason that 'development' is undefined and hence unreasonably uncertain to the point it will be ineffective and inefficient. I also agree that earthworks, building and subdivision rules (bullet points 2 - 4) effectively cover what might reasonably constitute development in an unambiguous way.

4.81 With respect to earthworks Ms Jones recommends retaining the earthworks provision as drafted. The reason for this is she considers it unnecessary to exclude exploration and prospecting from the rule given that the definition of earthworks determined by the recent decision on Plan Change 49 already excludes mining. I confirm that is correct, the definition of Earthworks contained in the Consent Order from the Court specifically excludes mining activities.

4.82 The reason for excluding mining from the definition of earthworks is found at Page 52 of the Council's decision where the Commission states:

"The Commission notes that cultivation and mining remain subject to rules and other provisions presented elsewhere in the District Plan, including those which relate to the Rural General Zone as presented in Section 5. Cleanfills are subject to a separate objective and policies (now Objective 8 and associated policies) in PC 49."

4.83 However, the PDP also contains a definition for earthworks which is not consistent with the definition under PC49 as it does not exclude mining:

"Means the disturbance of land surfaces by the removal or depositing of material, excavation, filling or the formation of roads, banks, and tracks. Excludes the cultivation of land and the digging of holes for offal pits and the erection of posts or poles or the planting of trees."

4.84 I note, to add to the confusion, that PC49 was publicly notified in July 2014 and included the exclusion. The Council's decision was publicly notified in July 2015 and included the exclusion. The Consent Order was issued by the Environment Court in April 2016 with the exclusion. The Proposed District plan was publicly notified in August 2015 without the exclusion.

4.85 NZTML have sought new definitions for Mining, Mineral Prospecting and Mineral Exploration as now recommended by Mr Barr in his Right of Reply to the Chapter 21 hearing (as discussed above). If it is appropriate to exclude mining from the definition of earthworks under PC49 then it is equally relevant, in my opinion, to exclude Mineral Prospecting and Mineral Exploration (both of which are of lesser scale activities to mining) from either the earthworks definition in the PDP or if that is not possible (due to scope) then from the earthworks standard in Rule 26.6.21. I have been unable to find a submission against the Earthworks definition in the PDP which would enable mining, exploration or prospecting to be excluded from the definition of earthworks. However that does not necessarily mean one does not exist and this issue may become clearer at the hearing on definitions later this year. In the meantime, the only option I see is to advance the case of excluding prospecting and exploration from this rule for the reason that those activities are controlled under the Rural Area provisions. Mining, unless excluded somehow by the earthworks definition, would be subject to the rule. I see little consequential scope to change that.

4.86 I note that the notified Rule refers to 200m³ of earthworks and the NZTML submission refers to 2000m³ of earthworks. I confirm that reference to '2000m³' in the NZTML submission is a drafting error and not an intentional request. Because the earthworks are not quantified by volume per hectare and appear to apply to the entire GHZ then this volume becomes an important one to NZTML if mineral prospecting and exploration are not excluded.

- 4.87** I note that under the Chapter 21 Rural Zone rules attached to Mr Barr's right of reply, Mineral Prospecting is a permitted activity and Mineral Exploration that does not involve more than 20m³ in volume in any one hectare is a controlled activity. Excluding Mineral Prospecting from this rule would in effect enable prospecting to occur within the GHZ and would require a controlled activity resource consent for exploration to 20m³ per hectare. Mining itself would remain a discretionary activity pursuant to the Rural Zone rules.
- 4.88** With respect to buildings, I note that the definition of such under the PDP excludes "Structures less than 5m² in area and in addition less than 2m in height above ground level." The deletion of the reference to buildings and structures over 5m² in footprint is therefore of no consequence, as a building of 5m² could still be built in the Rural Area without a resource consent.
- 4.89** However NZTML submission seeks the 5m² be replaced with 10m². Ms Jones introduces this in paragraph 16.11 of her section 42A report, but does not appear to address it any further. As part of NZTML's submission on Chapter 21 Rural Areas it sought recognition of 'Mining Buildings' in much the same way as the PDP provides for Farm Buildings. As discussed previously the submission sought the inclusion of a definition for Mining Buildings as follows:

"Means a building (as defined) necessary for the undertaking of mining activities (as defined)."

- 4.90** And amendment to Rule 21.5.18 as follows:

The construction, replacement or extension of a farm building or Mining Building as a permitted activity is subject to the following:

- 21.5.18.1 The landholding is greater than 100ha; and*
- 21.5.18.2 The density of all buildings on the site, inclusive of the proposed building(s) will be less than one farm building per 50 25 hectares on the site; and*
- 21.5.18.3 Is not If located within an Outstanding Natural Feature (ONF) is less than 3.5 metres in height and the ground floor area is not greater than 45m²; and*
- 21.5.18.4 If located within the Outstanding Natural Landscapes (ONL) is less than 4 metres in height and the ground floor area is not greater than 100m²; and*
- 21.5.18.5 Is less than 600 masl; and*
- 21.5.18.6 If located within the Rural Landscapes (RLC), is less than 5m in height and the ground floor area is not greater than 300m²; and*
- 21.5.18.7 Buildings shall not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.*

Discretion is restricted to all of the following:

- Rural Amenity values.*
- Landscape character.*
- Privacy, outlook and rural amenity from adjoining properties.*
- Visibility, including lighting.*

- Scale.
- Location.

4.91 If the Commission accepts NZTML submission to include Mining Buildings in the PDP then I consider there is merit to include provision for Mining Buildings within the GHL limited to no more than 10 m² in area. This will provide for small scale mining buildings consistent with the heritage values found in the HL. In this regard I relying on my own knowledge of the size of buildings found in the various HL.

4.93 I agree with the deletion of Subdivision from this list consistent with Part 14 of Ms Jones' section 42A report.

4.94 Given the potential scope issues, I recommend below splitting the GHL rules from the remaining HL rules.

Recommendation

4.95 I recommend that submission point **519.59** by NZTML is accepted by amending **Rule 26.6.21** as follows:

| Table 6 | Activity Standards – Heritage landscapes | All Landscapes |
|----------------|--|-----------------------|
| 26.6.21 | <p>Development in heritage landscapes In the Skippers, Moke Lake, Seffertown, and Macetown Heritage Landscape:</p> <ul style="list-style-type: none"> • Earthworks over 200m³ (but excluding farm track access, fencing, firebreaks, and public use tracks) • Buildings and structures over 510m² in footprint. • Subdivision. • Forestry. • Removal or destruction of any heritage feature that contributes to the values of the heritage landscape and is referred to in the statement of significance. <p><u>In the Glenorchy Heritage Landscape:</u></p> <ul style="list-style-type: none"> • <u>Earthworks over 200m³ (but excluding earthworks associated with farm track access, fencing, firebreaks, public use tracks, [mining], mineral exploration and prospecting)</u> • <u>Buildings, except Mining Buildings [or Farm Buildings] that do not exceed 10m² in area.</u> • <u>Forestry.</u> • <u>The removal or destruction of any heritage feature that is referred to in provision 26.12.8 Summary of significance or 26.12.9 Key features to be protected.</u> | D |

| | | |
|--|--|--|
| | <p><i>Note: If intending to destroy or modify or cause to be destroyed or modified an archaeological site, an Authority will be required from Heritage New Zealand pursuant to the HNZPTA 2014, 10 and if the archaeological site is listed in 26.10 of the District Plan then resource consent may also be required under Table 5 (rules 26.6.18 - 26.6.21)</i></p> | |
|--|--|--|

Section 32 Matters

- 4.96** I agree with Ms Jones' section 32 evaluation as contained on Pages 14 and 15 **Appendix 4** attached to her section 42A report. I further note that amending this provision as I have recommended further increases certainty and reduces duplication.

26.12.9 Key features to be protected

- 4.97** NZTML submission point **519.60** supports this statement with amendment as follows:

26.12.9.1 Significant heritage mining entrances, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).

26.12.9.2 ~~The mine sites entrances along the Mount Judah Road.~~

26.12.9.3 ~~All other known archaeological sites and historic places within the GHL~~

- 4.98** The NZTML submission notes that subsurface heritage features have little amenity value and thus, greatly reduced heritage value. This has been confirmed in the evidence of Dr Cawte.
- 4.99** The NZTML submissions also submit that the current wording seems to protect all tracks which is not justified. The wording should be clarified so it is clear the protection is for historic tracks.
- 4.100** The NZTML submission also notes that "mine site" could encompass land adjacent to say mine entrances (adits) which is too general. A modern mine entrance adjacent to an old one is beneficial for the purposes of continuing the ongoing interpretation of the area and allowing visitors to understand the changes in technology and the wax and wane of the mining cycle (refer to Mr Gray's evidence presented at the Stream 2 Hearing).
- 4.101** The NZTML also states that Rule 26.12.9.3 is not appropriate to include in this section as it does not sufficiently define which sites are to be protected. This rule should clearly identify all sites for protection without the need for a catch-all blanket protection. This would also remove a potential for heritage feature bias as discussed by Dr Cawte in his evidence.

Discussion

- 4.102** Ms Jones considers this part of the submission in paragraph 16.9 of her section 42A report. Ms Jones states that the intention of the submission appears to be to acknowledge that mining contributes to social and economic wellbeing; can be undertaken with minimal adverse effects; and that its continuation should be encouraged and enabled.
- 4.103** Ms Jones notes that NZTML seeks that the listed protected features only include 'significant mining entrances' (rather than all 'mines', as proposed) and that the reference to 'mine sites along Judah Rd' and 'all other known archaeological sites' be deleted, citing that subsurface heritage features have little amenity value and therefore have greatly reduced heritage value; that only historic tracks need be protected; and that reference to 'mine sites' is too general.
- 4.104** Ms Jones recommends at page 26-59 of Attachment 1 to her section 42A report that this Objective is amended as follows:

26.12.9 Key features to be protected

26.12.9.1 All mines, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).

26.12.9.2 The mine sites along the Mount Judah Road.

26.12.9.3 All other known ~~archaeological sites and~~ historic places within the GHL

- 4.105** In my opinion 26.12.9 Key features to be protected is vague and uncertain as to what it captures and the relief sought by NZTML endeavours to tighten that up and provide more certainty. For example, reference to mine sites along Mt Judah Road in 26.12.9.2 effectively replicates "all mines" in 26.12.9.1. There is no need to specifically refer to Black Peak Mine in 26.12.9.1 if that is a mine within the GHL boundaries.
- 4.106** I agree with Dr Cawte's professional opinion that the key feature to protect is the mine entrance and to a lesser degree the subterranean features given their low amenity value. To that extent I support NZTML submission that changes "All Mines" to "Significant heritage mining entrances" in 26.1.9.1. The change from "all" to "significant heritage" is important as not all mine entrances within the GHL have heritage value. It is recognised above that scheelite mining occurred within the GHL as late as the 1980's and as a result there are a number of layers of heritage, some recognised as significant for protection and others not.

Recommendation

4.107 I therefore recommend that submission point **519.60** by NZTML is accepted by amending **Provision 26.12.9 Key features to be protected** as follows:

- (a) Adopt Ms Jones' recommendation to delete the words "archaeological sites and" from 26.12.9.3: and
- (b) Further amendment as follows:

"26.12.9 Key features to be protected

26.12.9.1 Significant heritage mining entrances, mining huts, the cableway and track ways within the GHL boundary.

26.12.9.3 All other known historic places within the GHL."

Section 32 Matters

4.108 No further section 32 evaluation considered necessary.