

**BEFORE AN INDEPENDENT HEARING PANEL APPOINTED BY
QUEENSTOWN LAKES DISTRICT COUNCIL**

IN THE MATTER OF the Resource Management Act 1991

And

IN THE MATTER OF a Hearing by Independent Commissioners appointed by the
Queenstown Lakes District Council to consider and make
recommendations in a report to the Minister for the Environment
on submissions to Te Pūtahi Ladies Mile Plan Variation to the
Proposed Queenstown Lakes District Plan

Final Report and Recommendations

29 April 2024

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1. EXECUTIVE SUMMARY

- 1.1 The following is a wero (challenge) laid down by Kāi Tahu for the restoration of the mauri of Waiwhakaata Lake Hayes.

Ka ora te wai, ka ora te whenua, ka ora ai te tākata.

When the water is healthy and the land is healthy, then the people are healthy

- 1.2 The name that was given to the lake by tūpuna, references Waiwhakaata Lake Hayes as a place of reflection, a mirror lake, indicating a mauri of clean, clear waters of such clarity and quality that they reflected the surrounding landscape. Unfortunately, the lake has been significantly compromised by land use development within its catchment.
- 1.3 In the traditions of their ancestors Upoko Edward Ellison of Te Rūnaka o Ōtākou when naming the area as Te Pūtahi was referencing the confluence (of water) traditionally associated with the wai mauri of the area. Mauri is a critical element of the spiritual relationship of Kāi Tahu Whānui with their lakes and rivers.

Mō tātou, ā, mō kā uri a muri ake nei.

For us, and for our children after us.

- 1.4 Te Pūtahi Ladies Mile Plan Variation (**TPLM Variation**) to the Proposed Queenstown Lakes District Plan (**PDP**) seeks to rezone some 120 ha of rural, rural lifestyle and large lot residential land adjacent to State highway 6 (**SH6**) between the Shotover River and Waiwhakaata Lake Hayes (**TPLM Site**) for predominantly medium and high-density housing. It is part of a package of measures being advanced by the Queenstown Lakes District Council (**Council**) to help alleviate severe housing issues, especially those related to housing variety and affordability. Further, the Te Pūtahi Ladies Mile Zone (**TPLM Zone**) is not intended to be, and should not be envisaged as, a stand-alone neighbourhood. The TPLM Zone as designed, is integral to achieving a well-functioning urban environment for the current and future generations in the entire area between Shotover River and Waiwhakaata Lake Hayes. This includes the existing Shotover Country, Lake Hayes Estates, Queenstown Country Club, Bridesdale, and other developments.
- 1.5 But, as made clear in the challenge from Kāi Tahu, and in the Minister's expectations to us, this development must also recognise, and protect as appropriate, the mauri and environment of the TPLM Site and its surroundings, especially Waiwhakaata Lake Hayes.
- 1.6 In our evaluation of the proposed TPLM Zone, the requirements of s32 and s32AA of the Resource Management Act 1991 (**RMA**) came to the fore. These, in summary, require decisions to be made following a rigorous analysis of practicable alternative options and their various costs and benefits. We also considered this with an eye on what is fair, what is reasonable, and what is proportionate. We heard many good and well-principled ideas regarding what might deliver the best outcomes at the TPLM Site (and for its surroundings) and although many parties differed in what they each felt the TPLM Site

should be used for, there was no shortage of passion for the District and the special quality of life it offers. Our recommendations are based on accepting the severity of the housing issues facing the District, promoting what we regard as the most achievable and practical development framework, and requiring the most critical potential adverse effects to be avoided.

- 1.7 In responding to the challenge, the Minister's expectations, and the planning and legal framework, the TPLM Variation sets a new stormwater standard for urban development in the District. The triggers for transport require specified upgrades to be delivered ahead of development being completed on the TPLM Site. The Structure Plan and provisions will ensure high quality, well designed urban development of a range of (predominantly medium and high density) housing types.

Recommendation

- 1.8 This report is provided to the Minister for the Environment (**Minister**) in accordance with the RMA's Streamlined Planning Process (**SPP**) for the TPLM Variation.
- 1.9 We recommend that the Minister **approves** the TPLM Variation with the changes we have made (see **Appendix 1**) for the reasons explained in our report and as further explained in the material appended to it.
- 1.10 If the Minister wants to ensure the delivery and success of the TPLM Variation to provide much needed affordable housing (and a well-functioning urban environment) she needs to work with her fellow Ministers, the Council, NZ Transport Agency (**Waka Kotahi**), and the Otago Regional Council (**ORC**) to ensure that present and future investment in roading upgrades to SH6 (including a reduced SH6 speed limit of 60km/h) and public transport is delivered promptly, and that a new high school, in particular, is provided for within the TPLM Zone. We heard that a partnership approach has worked well to date but that must continue. We do not have the powers to require public-sector outcomes beyond the control or ambit of the RMA, but the evidence as to their need was clear. A significant effort has been put into the TPLM Variation and its important potential housing benefits. All that effort will likely be undermined if the Government and councils do not now deliver the high-quality passenger centric transport facilities that the TPLM Variation is premised around.
- 1.11 In our report and its appendices, we have addressed the key issues raised in submissions, along with other matters raised and the documents required to be provided to the Minister in accordance with the SPP.

Draft Recommendation

- 1.12 In accordance with the process on 12 March 2024 we released a draft recommendation for minor and technical (including legal) comments. The comments received, and our brief responses to them, are contained in **Appendix 9**. Despite all submitters having the opportunity to respond we received no comments on the legal framework, the planning framework and legal jurisdictional matters (including in relation to the Anna Hutchinson Family Trust land and the various matters of scope). While we received a comment from Glenpanel Development Limited (**GDL**) on specific transport triggers no comments were

received on the approach taken to applying those triggers to development (as defined). We also received very few comments (and no substantive comments) on the objectives and policies which, obviously, set the framework for the rules that follow.

Background

- 1.13 The TPLM Variation relates to the land sitting to the west of the Shotover River and to the east of Waiwhakaata Lake Hayes. SH6 runs west to east through the area. To the north lies Slope Hill, an outstanding natural feature (**ONF**), and to the south the urban areas of Queenstown Country Club (**QCC**), Lake Hayes Estate and Shotover Country (with the Kawarau River beyond them).
- 1.14 The TPLM Variation has been advanced to address a significant housing issue in Queenstown, especially housing affordability and housing type. Put simply:
 - (a) The TPLM Variation proposes a new special purpose zone, the TPLM Zone; and
 - (b) The TPLM Zone as notified enables, within the parameters of a Structure Plan, development of medium and high-density residential development, protection of a historic heritage site, and a commercial area to the north of SH6, and low density residential development to the south of SH6.
- 1.15 The TPLM Zone is not intended to be, and should not be envisaged as, a stand-alone neighbourhood. We were told that the existing lower-density urban neighbourhood south of SH6 had contributed substantially to existing traffic issues simply because so many of the services and activities needed by residents could only be accessed by way of travel outside of the area (and that the densities delivered could not by themselves support a quality passenger transport service). The TPLM Zone is intended to help rectify this situation and support the existing urban area south of SH6 through access to more local jobs, services (including open space), and commercial activities; and better, more-feasible local passenger transport services along SH6. As our thinking developed across the Hearing, we came to the view that the TPLM Zone is integral to achieving a well-functioning urban environment for current and future generations in the entire area between Shotover River and Waiwhakaata Lake Hayes; the Council's technical justifications and arguments in support of the new TPLM Zone were fundamentally predicated on that.
- 1.16 Given its location, it is easy to see how the TPLM Site is a strategic area in the District. It is located close to the Frankton Flats urban area (and airport), has the SH6 corridor running through it, is predominantly flat, sunny, of a significant size, outside areas of outstanding landscapes and features (in a District that is 97% covered by such features), not prone to significant natural hazards, able to integrate with existing urban areas and able to integrate with infrastructure. We agree that such land is very scarce in the District, and it must be used as efficiently as practicable.
- 1.17 But, picking up on the challenge laid down, and the Minister's expectations, urban development within the TPLM Site (in particular, the medium and high-density precincts) will fundamentally change the existing (rural residential) character of the area. Urban development has the potential for significant adverse effects, via stormwater, on

Waiwhakaata Lake Hayes. It will also introduce a significant number of new residents to an area that faces existing transport issues along SH6. Given these issues the provision of, and successful shift to, public transport in relation to the TPLM Variation is critical to a well-functioning urban environment. For those in the community who enjoy the existing rural character of the land, urbanisation and potential lost views of landscapes beyond the TPLM Zone also stand out as potentially substantial adverse effects. We carefully grappled with those concerns.

Context

- 1.18 For Rūnaka to fulfil their duties as kaitiaki, a function of rakatirataka, they seek the regeneration and enhancement of Waiwhakaata Lake Hayes, Kimiākau and Kawarau awa, so that mokopuna might experience their lakes and rivers in the manner of their ancestors. In so doing they recognise the interconnectedness of the environment and the wider Mata-au catchment, ki uta ki tai.
- 1.19 The name for the wider basin, Whakatipu-wai-māori originates from the earliest expedition of discovery made many generations ago by the tīpuna Rakaihautu and his party from the Uruao waka. Rakaihautu is traditionally credited with creating the great waterways of the interior of the island with his famous kō, known as Tū Whakaroria and renamed Tuhiraki at the conclusion of the expedition.
- 1.20 Whakatipu-wai-māori is an important source of freshwater, the lake itself being fed by hukawai (melt waters). These are waters with the highest level of purity and are accorded traditional classifications by Kāi Tahu that recognised this value. The mauri of Whakatipu-wai-māori represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life.

Issue and approach

- 1.21 The TPLM Variation is being advanced to respond to the need for more, and more-affordable, housing in Queenstown. We heard extensive evidence on the nature of housing supply, and affordability in Queenstown. What is clear is that Queenstown is a different market to most if not all of the rest of New Zealand (and as mentioned by one submitter, more of a global market than a local one, with significant numbers of 'holiday' homes and short-term (Air BnB) rentals).
- 1.22 With an average house price currently exceeding \$1.7m, housing affordability (at about 13 times the average household income) is a significant issue. This causes significant housing pressure, no longer just for short-term migrant workers in the District but on permanent workers and residents, especially families.
- 1.23 While there is (just) sufficient development capacity to meet long-term demand, the evidence was clear given the vagaries of the Queenstown market that more land is required, especially land intended to accommodate increased density development and those housing typologies focused on the 'affordable' end of the development spectrum.
- 1.24 Increased density is a key part of the housing affordability story. While we have, based on the evidence, reduced some density requirements compared to the TPLM variation as

notified, we have done so to ensure that development can start in the short-medium term and be achievable within the bounds of what can be reasonably anticipated in the foreseeable future. Even at the reduced densities we recommend, the required minimum density (40 dwellings/hectare (net)) in the MDR and HDR precincts will require a greater level of intensity than has been seen almost anywhere else in the District.

- 1.25 There is no doubt to us on the evidence we received that the provision for housing, in particular its unaffordability, is a significant resource management issue facing the District. There is also an existing issue in the area relating to the provision of important services and functions to provide well-functioning urban environments which the TPLM Variation will support. There is also no doubt to us on the evidence we received that the TPLM Variation is the correct planning response to help address that issue.
- 1.26 Having identified the issue and accepted it as one which requires a planning response in line with the TPLM Variation we considered the appropriateness of the TPLM Site. The economic experts we heard from agreed that the TPLM Site is an efficient location relative to the current and future patterns of development in Queenstown. That position aligned with the Council's existing growth and spatial plans for the District which identified the strategic nature of the TPLM Site. The TPLM Site also has attributes that lend it to intensive development (as explained above) and such land is a scarce resource in the District. We have no doubt that the TPLM Site is a highly appropriate location for intensive urban development.
- 1.27 As set out above the TPLM Variation will also benefit the neighbouring residential areas of Shotover Country, Lake Hayes Estate and Queenstown Country Club (and wider) by providing facilities and additional population that will enable a more integrated, well-functioning and more self-sustaining community to the east of the Shotover River.
- 1.28 Our approach was then to consider how the TPLM Variation should be structured to deliver intensive urban development efficiently and effectively (recognising the limited land resource available in the District) while appropriately avoiding and mitigating its adverse effects.
- 1.29 Key adverse effects considered included landscape, stormwater and traffic. In relation to those:
 - (a) While we recognise the area north of SH6 has a rural character, in our view the rural character of the local area has already been considerably changed to at least semi-urban. It has the capacity to accommodate the proposed intensive development. The TPLM Variation as notified had significant setbacks from SH6 to retain a sense of openness, theoretical views to the Slope Hill ONF and the Remarkables ONL,¹ and a 'gateway' experience. Initially we struggled with the notified approach which seemed to be full of compromises (and nice to haves) such that the provisions were not efficient and effective at addressing the issues. Through the Hearing process, the proposed speed limit on SH6 through the TPLM Site was identified by the traffic engineers we heard from as being better

¹ An intent for high-frequency planting of tall trees within the setbacks appeared likely to in-part defeat the intent of open views.

suiting to 60km/hr than the existing 100km/h. We very much agree with that. One consequence of such a reduced future speed limit and its opportunity for occasional traffic signals and safe active mode crossing opportunities is that it further reinforces an urban, not a rural, character. But, in summary, a compelling chain of causality and dependency arose:

- (i) First, it is most appropriate that development across each side of SH6 be highly integrated and easy for residents to access back and forth – especially given the proposed Commercial Precinct north of SH6 is intended to help meet the needs of existing residents to the south. There are obvious efficiencies and substantial well-being benefits on offer.
- (ii) Following that, the most appropriate means of facilitating such connections is via at-grade signal-controlled crossings (which avoids the need for the less-safe (Crime Prevention Through Environmental Design (**CPTED**)) and much less convenient (but more costly) under (or over) passes originally proposed, which we find to be an unacceptable solution). Following on from that, to achieve safe at-grade crossings and intersections, traffic signals are needed and this would not be possible if the speed limit on SH6 remains at 100km/h.
- (iii) Following that, creating an environment that could make a reduced 60km/h speed limit safe and workable (and that drivers were likely to comply with) requires high levels of ‘side friction’, best-achieved by having higher-density land use close to the highway edge (which also helps place a large population as close as possible to the identified future passenger transport route).
- (iv) Following that, and in light of all of the above, significant and unacceptable potential landscape or visual effects would need to be ‘on the table’ for wide setbacks that negated all of the above to be justified. Noting that development in the TPLM Zone would have no direct impact or effects on any ONL or ONF, and that views of these could still be provided in any event, we found that potential landscape and visual effects would not come close to this level of adverse effect, and could not be sustained based on a rigorous s32 and s32AA analysis.

As a result, we have recommended considerably reduced SH6 setbacks in the form of a Building Restriction Area (**BRA**) which we consider will deliver more land for development while enabling an appropriate connection to surrounding landscapes.

- (b) There is no doubt that there are existing traffic issues (capacity and delay) along SH6 and, while the time delays may not be considered significant in the context of other cities, for many residents and submitters this is a significant issue in Queenstown. We consider that, with appropriate provisions that we recommend, the TPLM Site can be developed without having a significant additional adverse effect on the SH6 corridor. The works that will be delivered will deliver better

transport outcomes for the wider communities that also use the SH6 corridor. The TPLM Variation provisions require transport works to be completed ahead of the completion of development and, if a new high school is not operating after 1,100 homes have been built within the TPLM Zone, a restricted discretionary assessment process to maintain the Council's ability to manage the transport network. Key to this therefore includes:

- (i) Delivery by the Waka Kothai, the Council and ORC on roading and public transport improvements; and
 - (ii) Delivery by the Ministry of Education (**MOE**) of schools (especially a new high school) in the area which will result in a significant reduction in peak time vehicle movements along SH6. MOE made a submission on the TPLM Variation that reflected its work to date and clear interest. The interest of MOE was also reflected in its letter of 23 January 2024 attached to the Council's Closing legal Submissions. Our recommended 1,100 dwelling assessment trigger relating to provision of a high school reflects the game-changing potential a high school in the Zone could have on the wider area, but also that our powers do not extend to requiring the Ministry of Education to deliver such a high school. This is also one example of how the s32 and s32AA process guided our evaluation of the submission issues and shaped what will be, in the circumstances, the most appropriate planning methods available.
- (c) Despite its significance, Waiwhakaata Lake Hayes is seriously degraded. Considerable iwi and community effort is going into its rehabilitation. While the TPLM Site makes up a small part of its catchment it is critical that the lake is appropriately protected (also that is in line with the Minister's expectations) and we have accepted a process that provides a step change in stormwater management for the District, which will deliver the appropriate protection.
- 1.30 Having considered the management of adverse effects (and also positive benefits) we adopted the approach, for the reasons set out in our recommendation, to front up and own the reality that the envisaged, and very important, land use outcomes proposed would significantly change the existing character of the area. In that context, maximising the delivery of affordable housing typologies that can feasibly be delivered by the market in the short to medium term is in our firm view a more important resource management outcome than limiting the delivery of housing to provide (still in our view highly compromised) rural character. In doing so we have focused on the efficient and effective use of the land, encouraging the maximisation of density while ensure high-quality urban design and provision for a well-landscaped frontage to SH6 that allows periodic views to the outstanding landscapes and natural features beyond the TPLM Zone. Through the Hearing significant changes were made to the proposed provisions and we have recommended additional changes as set out in **Appendix 1**.
- 1.31 For the reasons set out in this recommendation we consider that the Minister should approve the TPLM Variation. We have been left in no doubt about the significance and

urgency of housing provision in the District, including in relation to affordable housing. The provision of potential higher density housing enabled through the TPLM Variation will provide a significant planning response towards addressing this issue.

- 1.32 We thank the Council team, and the submitters and their experts, for their input throughout this process. Planning for the TPLM Variation has taken many years and considerable changes occurred to the notified version through the Hearing process. We especially thank Mr Brown for his very pragmatic efforts.
- 1.33 We also thank the Hearing Administrator Lynley Scott, and Shelley Dawson, for their efforts and assistance throughout in making sure the whole process ran smoothly.

2. INTRODUCTION

- 2.1 The TPLM Variation proposes to introduce to the PDP a new Special Purpose Zone, the TPLM Zone with, as notified, associated variations to Chapters 4 and 27 of the PDP and consequential amendments to Chapters 25, 29, 31 and 36 to recognise the TPLM Zone.
- 2.2 The TPLM Zone, and all the associated changes, propose to rezone the TPLM Site (adjacent to SH6, generally to the west of the Shotover River and to the east of Waiwhakaata Lake Hayes)² from its current zoning (a mix of Rural, Rural Lifestyle, Large Lot Residential A and Wakatipu Basin Rural Amenity Zone under the PDP) to the new TPLM Zone, enabling in particular a range of high, medium and low density residential and commercial zones.
- 2.3 The TPLM Site is owned by multiple landowners. Some of these landowners have tried multiple ad hoc methods, including under the Housing Accords and Special Housing Areas Act 2013 (now repealed) (**HASHAA**) and COVID-19 Recovery (Fast-track Consenting) Act 2020 (now repealed) (**COVID Fast-track**) to enable the development of their land.³ These processes have, to date, not been highly successful. Rather than have a myriad of ad hoc developments, the Council proposed to prepare, through a Local Government Act 2002 (**LGA**) based Masterplan process (which built on an earlier LGA based Spatial Plan), an integrated approach to enable the urban development of the TPLM Site. This Masterplan ultimately led to much of the notified TPLM Variation's substance.
- 2.4 The TPLM Zone proposes urban development (high and medium density, with a commercial area and a historic heritage area) to the north of SH6, and low density residential to the south of SH6 including housing (of varying densities) while providing a planning framework to appropriately manage potential adverse environmental effects arising from that development. Specific changes are also proposed to the District-wide provisions of the PDP to accommodate and reflect specific characteristics of the TPLM Zone. The TPLM Variation provides an integrated framework to guide resource consent applications by landowners and developers for subdivision and development proposals within the TPLM Site.

² The location is illustrated in Figure 1 below and also Figure 1 of the s32 Evaluation Report.

³ Three various COVID Fast-track processes remain extant.

- 2.5 On 31 October 2022 the Queenstown Lakes District Council (**Council**) applied⁴ to the Minister for the Environment (**Minister**) to use the RMA's Streamlined Planning Process (**SPP**) for the TPLM Variation. On 30 March 2023 the Minister directed (**Minister's Direction**), by notice in the Gazette,⁵ that the TPLM Variation be progressed using a SPP process.
- 2.6 Following the Minister's Direction, the Council is required to submit to the Minister a written report that:
- (a) details how submissions have been considered and the changes (if any) recommended to the TPLM variation (if any) as a result of submissions, including a s32AA evaluation if required; and
 - (b) provides all matters required by cl 83(1) of Schedule 1 of the RMA for the Minister's consideration.
- 2.7 After consideration of our report the Minister may approve the TPLM Variation, refer it back to the Council for further consideration, or decline it.⁶
- 2.8 We, David Allen (Chair), Gillian Crowcroft, Hoani Langsbury, Judith Makinson and Ian Munro (**Hearing Panel**) have been appointed by the Council as Independent Commissioners to provide the report required by the Minister's Direction. We have the requisite knowledge, skills and expertise as set out in the Minister's Direction.
- 2.9 The purpose of our report is to provide the Minister with our recommendations, applying the legal requirements and all the relevant information required to enable her to make her decision. Under cl 83(1) of Schedule 1 of the RMA, we are required to provide to the Minister the following:
- (a) the TPLM Variation, drafted to reflect our recommendations (**Appendix 1**);
 - (b) a summary report of the written submissions (**Appendix 2**);
 - (c) an issues and recommendations report showing how submissions have been considered and any modifications made to the TPLM variation in light of the submissions (Sections 3 to 14 of our report);
 - (d) the evaluation reports required by s 32 (**Appendix 3**) and s 32AA (**Appendix 4**) with our additional s32AA evaluations being contained in Sections 3 to 14 of our report;
 - (e) a summary document showing how the Council (and us as the Hearing Panel) has had regard to the Minister's Statement of Expectations (**Appendix 5**); and
 - (f) a summary document (Sections 3 and 14 of our report) showing how the TPLM Variation complies with the requirements of:
 - (i) any relevant national direction; and
 - (ii) the RMA or regulations made under it; and

⁴ Pursuant to s 80C and cl 75 of sch 1 of the Resource Management Act 1991 (**RMA**).

⁵ In accordance with cl 78 of sch 1 of the RMA.

⁶ RMA, sch 1 cl 84(1).

(g) any other information and documentation that is specified in the direction.

2.10 We have also appended:

- (a) the legal framework (**Appendix 6**);
- (b) further detail regarding whether the AHFT submission is "on" the TPLM Variation (**Appendix 7**);
- (c) a summary of our responses to lay and general submitter points (**Appendix 8**);
and
- (d) comments received on the draft report dated 12 March 2024 and our brief response (**Appendix 9**). We thank the submitters, and the Council (including for compiling the responses in an efficient manner), who took the time and effort to provide us with comments through this process.

2.11 In making our recommendation we have applied the legal framework as required and had regard to the Minister's expectations as set out in the Minister's Direction, that the TPLM Variation:

- (a) contributes to providing sufficient opportunities for the development of housing and business land to ensure a well-functioning urban environment including maximising opportunities to enable housing, particularly of the typologies identified as forming a shortfall in Queenstown's Housing Development Capacity Assessment 2021 (housing suitable for older households, smaller households, and lower and lower-middle income households);
- (b) ensures that future development will be undertaken in a manner which recognises the limitations of the existing transport network in this location;
- (c) ensures appropriate and feasible infrastructure is provided for in the TPLM Zone, including stormwater management that allows for future climate change impacts, and access to everyday needs through transport options that support emissions reduction (such as public and/or active transport); and
- (d) ensures future development will be undertaken in a manner that recognises and protects sensitive receiving environments including in particular Slope Hill, Waiwhakaata Lake Hayes and the Shotover River.

2.12 The Council has also ensured that in undertaking the SPP it has complied with the Minister's expectations.

2.13 For the reasons expressed in our report (and **Appendix 5**) we are satisfied that the TPLM Variation, as modified with our recommended changes, meets the Minister's expectations.

2.14 Our report:

- (a) provides a summary of:
 - (i) the background leading to the notification of the TPLM Variation; and
 - (ii) the key issues raised in submissions (and during the Hearing);
- (b) describes the Hearing process that was followed; and
- (c) explains the reasons for:
 - (i) our recommendations on the key issues; and
 - (ii) our recommended changes to the Variation (**Appendix 1**).

2.15 In providing our report, we have considered all the background material to the TPLM Variation, the s32 Evaluation Report and additional s32AA evaluations undertaken by the various planning experts, all of the submissions received, all evidence received (including joint witness conferencing, response to questions, the witness summary statements and additional material requested during the Hearing), and representations of the submitters given at the Hearing , the s42A Report by the Council's reporting officers, the responses to our questions and the Reply s42A Report and associated evidence and all other relevant documents (including legal submissions) and matters. We have also undertaken our own additional s32AA analysis when required as set out in this report.

2.16 Our recommendation to the Minister is that the TPLM Variation be approved with modifications (as shown in **Appendix 1**), and that the submissions be accepted, or accepted in part, or rejected in line with our overall recommendation.

3. BACKGROUND

3.1 This section addresses:

- (a) The rationale for the TPLM Variation;
- (b) The challenge;
- (c) The Location and general nature of the TPLM Site;
- (d) Development in the TPLM variation area;
- (e) History: HASHAA;
- (f) History: The PDP;
- (g) History: The Wakatipu Basin Land Use Planning Study (**WBLUS**);
- (h) History: Development efforts within the TPLM Site;
- (i) History: The Council's concern and next steps;
- (j) The Spatial Plan;
- (k) The Masterplan;
- (l) The TPLM Variation;

- (m) The s32 Evaluation Report;
- (n) Submissions and further submissions;
- (o) The pre-Hearing and Hearing process;
- (p) The legal framework; and
- (q) The planning framework.

Rationale for the TPLM Variation

3.2 The issue driving, and being addressed by, the TPLM Variation is the provision of housing, and in particular its unaffordability, in the Queenstown Lakes District. The 2018 Census showed the District to have the fastest growth rate in the country. The s32 Evaluation Report explains:⁷

The Council's Change the Path scenario (high growth) would see an additional 10,800 people in the District over the decade to 2030 (+27%) and an additional 36,000 by 2050 to reach 76,700 residents (+87%). The total dwelling projections based on these numbers can be converted to the following demand for dwellings increase:

- a. 930 additional dwellings to reach 19,690 by 2023 (short term),
- b. 6,400 additional dwellings to reach 24,980 by 2030 (medium term); and
- c. 19,800 additional dwellings to reach 37,960 by 2050 (long term).

The Housing Development Capacity Assessment 2021 (**HCA**) modelling indicates that housing demand is likely to change as follows:

- Increases in the number of older households, with those in the 60+ and above categories more than doubling over the medium to long term. Younger age groups (including children) start to make up only a relatively small proportion of the future population;
- Increases in one person and couple householders, with one person and couple households accounting for around three quarters of the total household growth in the medium term, and in the long term;
- Lower and lower-middle income households are expected to account for a greater share of future housing demand (20% currently increasing to 25% long term).

This analysis indicates that housing affordability is going to become progressively more important for non-owner households in the middle and later years, as lifetime earning potential reduces, and ability to access housing finance often reduces; and that these changes should translate into market supply, in theory, over the medium to long term, of dwelling types decreasing in both size and cost.

The HCA finds that there is a current shortfall of housing in price bands below \$500,000 (-2,350 affordable dwellings in 2020 for first home buyers, with the majority of these households in rental accommodation). These housing affordability shortfalls are set to worsen if there are no interventions by 2050 to help first home buyers get into the housing market. Otherwise, there could be a shortfall of 6,960 affordable dwellings affecting dwelling value bands all the way up to \$1.19m.

⁷ Section 32 Evaluation Report, pages 14 and 15.

3.3 The expectations of the Minister for the Environment include that the TPLM Variation:⁸

contributes to providing sufficient opportunities for the development of housing and business land to ensure a well-functioning urban environment including maximising opportunities to enable housing, particularly of the typologies identified as a shortfall in Queenstown's Housing Development Capacity Assessment 2021 (housing suitable for older households, smaller households, and lower and lower-middle income households).

3.4 As alluded to in the Minister's expectations, in 2021 the District Housing Development Capacity Assessment (**HCA**) was published. It provides useful analysis on the District's housing market, including assessments on capacity and sufficiency, and discusses the impact of planning and infrastructure on housing affordability and market competition. In guiding future planning and decision making, while recognising that the Council has made sufficient provision for housing growth, the HCA made several recommendations for the Council to help maintain and potentially improve on the conditions, most relevantly "encouraging and enabling initiatives that increase the uptake of enabled and serviced capacity in a more affordable price range...to help ensure a comprehensive and balanced future dwelling state."⁹ These initiatives may "include inclusionary zoning, further investment by Kāinga Ora to complement the broad brush mechanisms like zoning and development controls in the District Plan, and other measures to reduce building costs, complexity and time delays."¹⁰

3.5 The growth pressures are succinctly illustrated in the Queenstown Lakes Spatial Plan 2021 (**Spatial Plan**)¹¹ which provides¹² 2021 average daily population figures for residents at 41,000 and visitors at 10,000 and the predicted 2051 average daily population figures of 78,000 residents and 42,000 visitors.

3.6 While the HCA found that, at a total urban environment level, there is sufficient development capacity (just) to meet projected long-term demand (inclusive of a margin),¹³ housing affordability has been decreasing and house prices have been increasing.

3.7 Housing affordability is a key issue for the District.¹⁴ The Queenstown Lakes Spatial Plan 2021 (**Spatial Plan**) states:¹⁵

Prior to the COVID-19 pandemic, Queenstown Lakes' housing market was the most expensive in New Zealand with the average dwelling costing around \$1million, and average weekly rents of \$650. Coupled with below average incomes, the current average house value to average annual earnings reached a ratio of 20:1. Housing affordability will likely remain an issue after the COVID-19 pandemic.

...

⁸ See Appendix 5.

⁹ Housing Development Capacity Assessment for Queenstown Lakes District, pages 213 and 214.

¹⁰ Housing Capacity Assessment, page 214.

¹¹ [the-spatial-plan_a4-booklet_jul21-final-web-for-desktop.pdf \(qldc.govt.nz\) \(Spatial Plan\)](#).

¹² At page 15.

¹³ Section 32 Evaluation Report, page 15; and Housing Capacity Assessment, page 3.

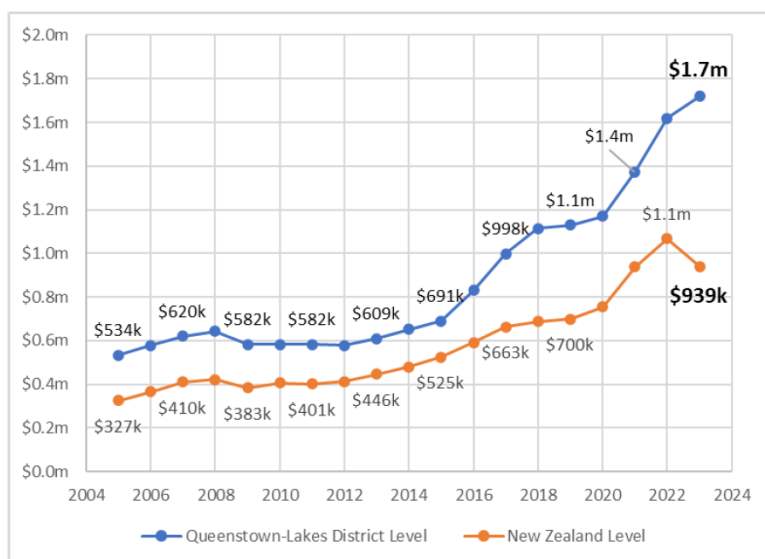
¹⁴ See for example the Spatial Plan, page 77.

¹⁵ Spatial Plan, page 43.

Increases in household incomes have not kept up with the cost of living. Affordability is a particular problem for those working in labour intensive tourism and related industries, as these industries have relatively low productivity and low earnings. Unemployment is low, yet many work multiple jobs to afford to live in the area, resulting in a stressed workforce. This has knock-on implications for their families and community. The shortage of affordable housing is hindering recruitment and retention of workers in a range of sectors and professions. Migrant workers make up a significant portion of the resident population but have very limited options for accessing housing support.

3.8 Queenstown Lakes District retains the highest average house prices in New Zealand (using the most recent data before us an average of \$1.7m versus a national average of \$939,000 – see **Figure 1**) and the highest level of housing unaffordability in New Zealand (about 13 times above the average household income versus a national average of 7 – see **Figure 2**).¹⁶ As a result of housing unaffordability and rising interest rates, Queenstown also has poor levels of housing serviceability, whereby the annual servicing cost for the average Queenstown mortgage has almost reached the average household income.¹⁷ There is no doubt on the evidence we received that the provision for housing, in particular its unaffordability, is a significant resource management issue facing the District. This was especially emphasised in a practical sense by the evidence of Ms Scott on behalf of the Queenstown Lakes Community Housing Trust.¹⁸

Figure 1: Housing prices in Queenstown-Lakes District compared to the national average



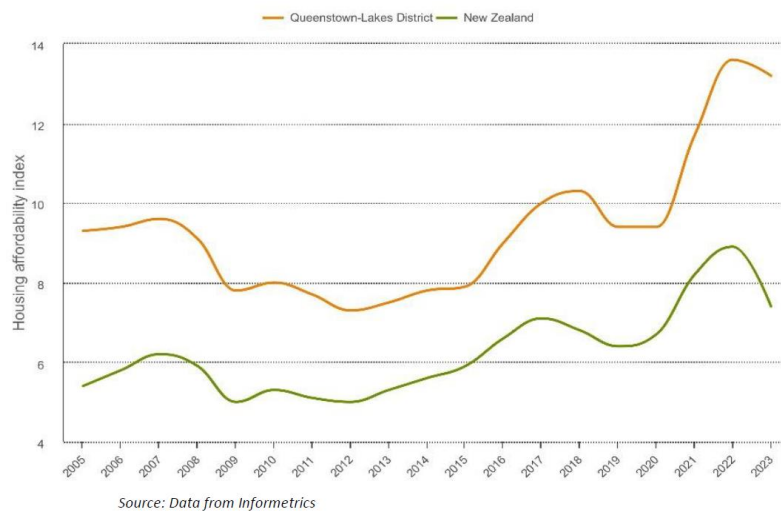
Source: Data from Informetrics Regional Economic Profile², Graph from Property Economics

¹⁶ See for example the Statement of Evidence of Phil Osborne, Figures 2 and 3.

¹⁷ Statement of Evidence of Phil Osborne at [15].

¹⁸ [Proposed Urban Intensification Variation | Let's Talk Queenstown Lakes District Council \(qldc.govt.nz\) \(Urban Intensification Variation\)](https://www.qldc.govt.nz/urban-intensification-variation).

Figure 2: Housing affordability trends (2005 – 2023)



3.9 Over the past 10 years, there has been a general shift in the type of building consents issued across the country in favour of higher density dwellings, to accommodate for the increases in housing unaffordability. Mr Heath's evidence supports increased density in residential developments that are close to local centres to better meet the needs of the community. Increased density in these circumstances is seen to be beneficial as it offers opportunity to create more productive and higher amenity urban populations, reduces commute times (and traffic) and promotes sustainable land use practices.¹⁹

3.10 The evidence of Ms Fairgray supports the position that presently the plan enabled capacity, and that proposed to be provided through the Urban Intensification Variation,²⁰ are large relative to long term demand when considered at the total urban area level.²¹ However, Ms Fairgray states that:²²

- (a) In her opinion it is appropriate and important for plan enabled and commercially feasible dwelling capacity to exceed demand (as only a portion will be developed); and
- (b) Dwelling capacity at the total urban area level is only one component in assessing the ability for QLDC to meet long-term housing demand.

3.11 Mr Osborne's evidence aligned with, but expanded on, Ms Fairgray's evidence on the importance of dwelling capacity to exceed demand, especially in Queenstown. He states:²³

This feasible capacity is, in general, significantly lower than the capacity enabled through a District plan. The last two decades has generally seen a rise in the proportion of feasible capacity in urban centres as land prices have escalated. As identified, unlike the rest of the nation, Queenstown continues to experience these land price increases that ultimately should continue to increase feasibility and thereby

¹⁹ Statement of Evidence of Tim Heath at [25].

²⁰ [Urban Intensification Variation](#).

²¹ Statement of Evidence of Susan Fairgray at [62].

²² At [63] and [64].

²³ Statement of Evidence of Phil Osborne at [35] and [36].

balance supply with demand. This outcome has unfortunately not materialised in Queenstown in practice. In my view, the reliance on plan-enabled capacity in the Queenstown market has been proven unreliable time and again. The reality is that, in the Queenstown market, significant further feasible capacity needs to be provided in order to shift the market in terms of supply and affordability, rather than simply being sufficient to meet a projected demand at a single point in time.

Following on from feasible development is the motivation of landowners and developers, who may not choose to develop sites that are deemed feasible. This has also been a distinct feature of the Queenstown market. For example, the market exhibits a willingness to accept a private economic cost associated with retaining larger sites, while other sites may not be developed to their capacity given developers' lack of willingness (or indeed that of financial institutions in terms of lending) to accept greater risk with larger developments. These factors are often considered in a further reduction to 'realisable' capacity. Each of these factors are likely to play a significant role in lowering capacity numbers and materially impacting upon the distribution of that capacity and its efficiency.

3.12 The nature of the housing market in Queenstown is also commented on in the Spatial Plan which states:²⁴

The housing market in the Queenstown Lakes has different characteristics to many other areas of New Zealand. The popularity of the area as a holiday destination means there are many unoccupied dwellings (28%), as well as a very high percentage of short-term rentals (such as Air BnB) to long term rentals (49.8%). Rents have increased by 54% over the past five years, over double the New Zealand average. Build costs for new houses are also significantly higher (23%) than the New Zealand average.

3.13 Ms Fairgray notes that it is important to provide dwelling type and location choice to the market. She considers,²⁵ and we agree, that the TPLM Variation is in an efficient location relative to current and future patterns of development in Queenstown. Further, and importantly, the TPLM variation will diversify the dwelling mix and range of dwelling values, better aligning with long-term patterns of community demand. There is also general agreement among the economic experts in support of the TPLM location for urban growth which supports a development pattern that, as already identified, critically increases the types of dwellings available in the Queenstown housing market and eastern corridor.²⁶

3.14 In addition, Ms Fairgray's modelling indicates that housing demand is likely to change with medium to higher density dwellings (in particular duplex/terraced dwellings) accounting for a greater share of growth in demand in housing stock.²⁷ In particular medium density dwelling demand is predicted to account for a significant share of demand growth in the medium-term, increasing further in the long-term. Delivery of new attached dwellings have generally occurred at the lower to mid parts of the market, resulting in stable dwelling consent value trends.²⁸

²⁴ Spatial Plan at 43.

²⁵ Statement of Evidence at [19] and [65].

²⁶ Rebuttal Evidence of Susan Fairgray at [13].

²⁷ Statement of Evidence at [11].

²⁸ Statement of Evidence at [16].

3.15 In addition to the experts, we also heard directly as to the housing crisis and its implications for families and individuals from several lay witnesses. Their evidence helped us understand the impacts of the housing 'crisis' in Queenstown and how it had extended well beyond temporary workers to permanent workers within the District and their families.

The challenge

3.16 The 'challenge', as laid down by Mr Davis for Kāi Tahu, and one which we consider succinctly summarises our role and the legal framework, is that while ensuring the appropriate provision and diversity of housing (in particular affordable housing) all parties must take an integrated and collaborative approach to the cumulative effects of urban development and expansion (in particular in relation to stormwater and Waiwhakaata Lake Hayes).²⁹ This should be done by implementing ki uta ki tai, where solutions and opportunities are prioritised that not only support the catchment to thrive, but the ecosystem as a whole – from mountains to sea.

3.17 Mr Davis emphasised that an integrated approach to sustainable land management acknowledges the holistic nature and interrelationship of ecosystems and waterbodies and the innate relationship between wai and whānau, hapū, iwi and communities. Solely adhering to formal zoning does not consider the broader environment and integrated catchment management. Ultimately, Mr Davis supported the building of whare and creating safe places for whānau as well as protecting the environment that sustains the whare and whānau for generations to come.

3.18 The challenge is not new. The strategic documents reviewed in this section below recognise the issue. The Spatial Plan states:³⁰

The Queenstown Lakes is renowned for its natural beauty. The landscapes and environment are of significant value to Kāi Tahu, the community and visitors. ... The natural environment makes the area a highly sought-after location as a place to live, invest, play and visit. It is imperative that this is protected for both current and future generations, while honouring cultural associations.

Growth pressures have resulted in urban development occurring over an increasingly large, dispersed area. This is changing some areas from a rural character or natural landscape to a more modified rural and urban environment, compromising some aspects of the environment valued by the community and Kāi Tahu. It is also impacting the productivity of rural land through fragmentation and reverse sensitivity issues.

3.19 Of relevance in the Queenstown Lakes District are the numerous natural constraints, in particular 97% of the District being either an outstanding natural landscape or outstanding natural feature.³¹

²⁹ See also the Summary Statement of Michael Bathgate at [11].

³⁰ Spatial Plan at 42.

³¹ Spatial Plan, page 42.

Location and general nature of the TPLM Site

3.20 The TPLM Site is some 120ha adjacent (north and south) to SH6, generally to the west of the Shotover River and to the east of Waiwhakaata Lake Hayes³² with the TPLM Variation applying to land between the top of the terraces above the Shotover River to the west and Threepwood in the east. The general location, and location of the TPLM Site, is shown in **Figure 3**.

Figure 3: The TPLM Site as notified (shown in black as per the original)

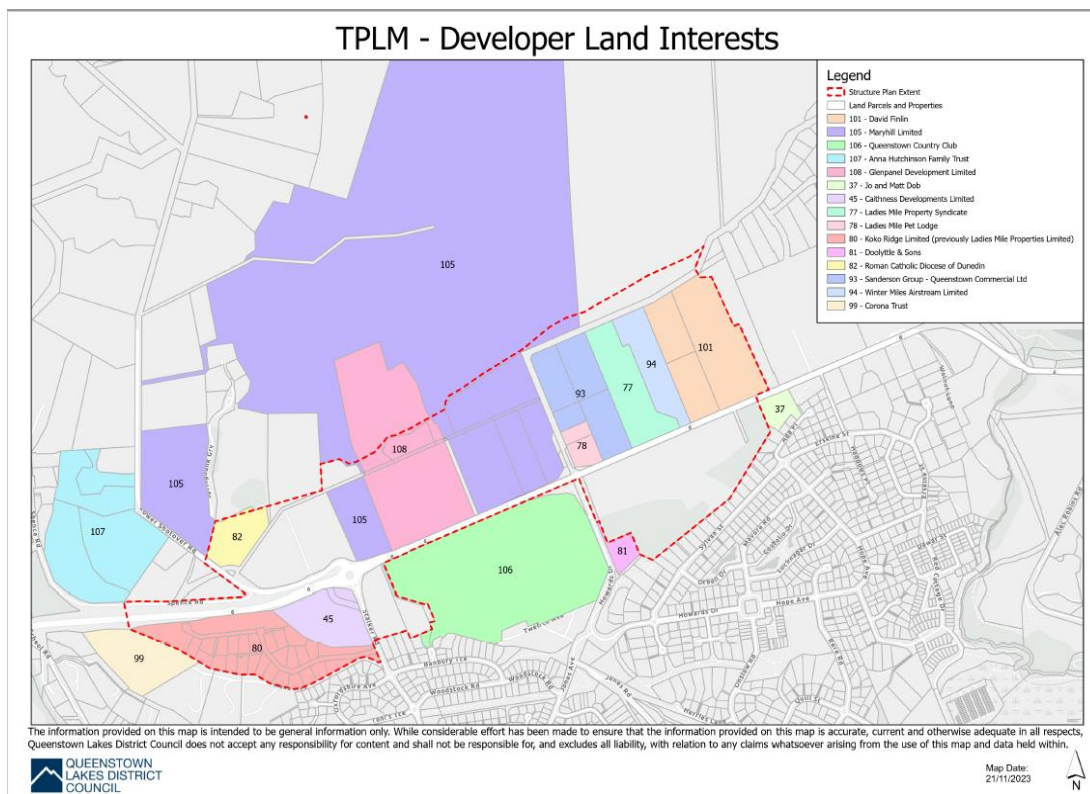


- 3.21 **Figure 3** also shows the strategic nature of the TPLM Site. It is located along the eastern transport corridor for Queenstown, adjacent to SH6 and the existing urban areas of Shotover Country, Lake Hayes Estate and the Queenstown Country Club (which is within the TPLM Variation area). It is close (within 5km) to the airport, Te Kirikiri / Frankton Flats which is the regional commercial area and accommodates Wakatipu College, the sole secondary school for Queenstown. A further key physical feature is the SH6 Shotover Bridge (the old Shotover Bridge can be made out to the north (upstream of the SH6 Shotover Bridge). The bridge enables transportation across the river and also accommodates all key utility services, including wastewater to the Queenstown / Shotover Wastewater Treatment Plant. The wastewater treatment plant is seen in **Figure 3** on the eastern bank of the Shotover River, south of the bridge.
- 3.22 Key natural features, and constraints, can also be seen on Figure 3. The TPLM Site is at the toe of the Slope Hill Outstanding Natural Feature (**ONF**) but is not itself within the ONF, nor any Outstanding natural Landscape (**ONL**). The Shotover River and Waiwhakaata Lake Hayes (both of which have associated ONF areas) can be seen to the east and west of the TPLM Site respectively.
- 3.23 A key feature of the TPLM Site is that it is flat land, which generally falls to the north-east at a grade of approximately 1%.

³² Figure 1 of the s32 Evaluation Report.

- 3.24 Presently the land is zoned, Rural, Rural Lifestyle, Large Lot Residential A and Wakatipu Basin Rural Amenity Zone under the PDP. The land is presently used for rural and rural lifestyle purposes. There are lifestyle properties and a pet lodge. The historic Glenpanel villa, and its grounds, is within the TPLM Site. Several mature shelterbelts line property boundaries
- 3.25 The TPLM Site is owned by multiple landowners. Attached to the legal submissions for the Council was a plan showing the developer land interests by submitter number. This plan is reproduced as **Figure 4**.

Figure 4: Developer Land Interests



Development in the TPLM variation area

- 3.26 Until 1998 the wider 'Ladies Mile' area to the west of the Shotover River was zoned rural. Lake Hayes Estate was developed around 1998-2008 and now contains housing with lot sizes of approximately 500-1000 m², with some very limited commercial activities.
- 3.27 Development of the Shotover Country Estate commenced in 2012 and has been developed with residential lot sizes of approximately 200 – 750m². It contains Shotover Primary School.
- 3.28 Collectively these two areas provide approximately 1,500 residential dwellings and form the largest residential population centre in the Wakatipu Basin.
- 3.29 To provide for a future District park with sports facilities and recreational and community spaces, and to support other uses the Council purchased 516 Frankton, Ladies Mile Highway (in May 2019). Once developed, 516 Ladies Mile will service existing

communities, future communities in the TPLM Area and the wider District. The TPLM Structure Plan also provides for two local parks and one community park to be located centrally within the neighbourhoods. Provision of these spaces will help address the lack of community facilities in the area.

History: HASHAA

- 3.30 In 2013 the Housing Accords and Special Housing Areas Act (**HASHAA**) commenced. The purpose of the HASHAA was to "enhance housing affordability by facilitating an increase in land and housing supply in certain regions or Districts ... [including Queenstown] identified as having housing supply and affordability issues."
- 3.31 In October 2014 the Council and Government entered into the Queenstown-Lakes District Housing Accord (**Housing Accord**) with the aim to improve housing supply and affordability in the District. Under the Housing Accord, a Lead Policy was developed to identify appropriate areas for growth and affordability outcomes.
- 3.32 Relevant to the TPLM Site this process led to the approval of:
- (a) the Bridesdale Special Housing Area (**SHA**) (approximately 136 residential units) in 2014 (to the west of Lake Hayes Estate and extending down to the Kawarau River;
 - (b) the Queenstown Country Club SHA (376 retirement units); and
 - (c) the Shotover Country SHA (101 residential units) which was an extension to the existing zoned area of Shotover Country.
- 3.33 The expression of interest for an SHA on the northern side of SH6 (Glenpanel) to allow for 207 lots was not recommended by the Council to the Minister due to traffic and water servicing concerns.³³

History: The Proposed District Plan (PDP)

- 3.34 The Council is progressing changes to its Operative District Plan. This process has occurred in stages with Stage 1 notified in 2015, Stage 2 in 2017 and Stage 3 in 2019. These changes are well progressed (some appeals remain) and further stages are anticipated over the next few years. Several variations to the PDP (including the TPLM variation) have been notified.
- 3.35 The TPLM Variation s42A Report sets out the relevant PDP processes as follows:³⁴

The TPLM land was initially notified as Rural Zone in Stage 1 of the Review, with the eastern end adjacent to Lake Hayes subsequently varied to the Wakatipu Basin Rural Amenity Zone (WBRAZ) as a result of the Wakatipu Basin Variation in Stage 2. The Wakatipu Basin Variation was initiated following the Independent Hearing Panel's Stage 1 recommendation to commission a Wakatipu Basin Land Use Study (WBLUS) to identify an integrated planning regime for the wider Wakatipu Basin area.

The WBLUS was completed in 2017. It identified that additional urban scale development was appropriate at TPLM, noting it had high capability to absorb additional development. To achieve urban

³³ Ladies Mile Te Putahi Masterplan Establishment Report (February 2020) (**Establishment Report**), page 47.

³⁴ Section 42A Report at [6.18] – [6.22].

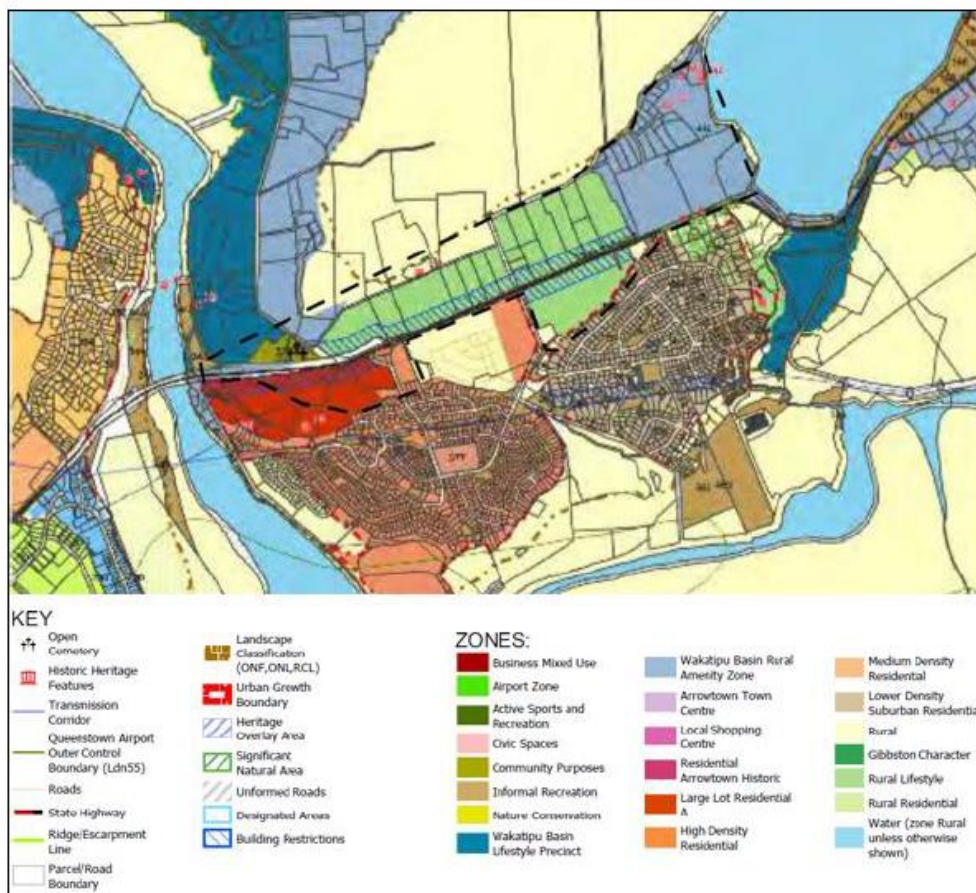
development, the WBLUS recommended the inclusion of a Ladies Mile Gateway Precinct overlaid on top of the WBRAZ. The Precinct anticipated low to medium density housing (1:450m² and/or 1:250m²), subject to a 75m setback from State Highway 6 and all buildings requiring resource consent. It recommended a structure plan process to assess amenity, landscape and infrastructure issues.

The Council deliberately chose, at that time, not to move forward with the recommendations of WBLUS and did not include the majority of the area within the Wakatipu Basin variation. At that time, it was anticipated that the area would likely be subject to future SHA applications under the HAASHA, and an indicative master planning exercise had been undertaken as part of Lead Policy

Decisions on the zoning of this land were notified as part of the Stage 2 decisions in 2019. Although the Independent Hearing Panel recognised the urban potential of the TPLM area, under the scope of submissions the area was subsequently zoned Rural, Rural Lifestyle, Wakatipu Basin Rural Amenity Zone, Large Lot Residential A, and Open Space, which are the current "decisions version" PDP zonings.

Figure 5 below shows these zonings. The possible residential yield is approximately 20 sections in the Rural Lifestyle Zone (green) and 99 sections in the Large Lot Residential A Zone (red).

Figure 5: Proposed District Plan decisions version zoning – Stage 2 (The TPLM focus area outlined in black dashed line)



3.36 As expressed in the s42A Report, given the zoning and multiple underlying titles with different ownership, future development of the TPLM Site under the PDP "has the strong potential to be piecemeal and ad hoc." That statement certainly reflects the reality to date. A brief history is set out below.

History: WBLUS

3.37 The WBLUS had a focus on developing planning options to address growth and housing pressures while avoiding, remedying and mitigating effects within the Wakatipu Basin. Of continued relevance, the WBLUS states:³⁵

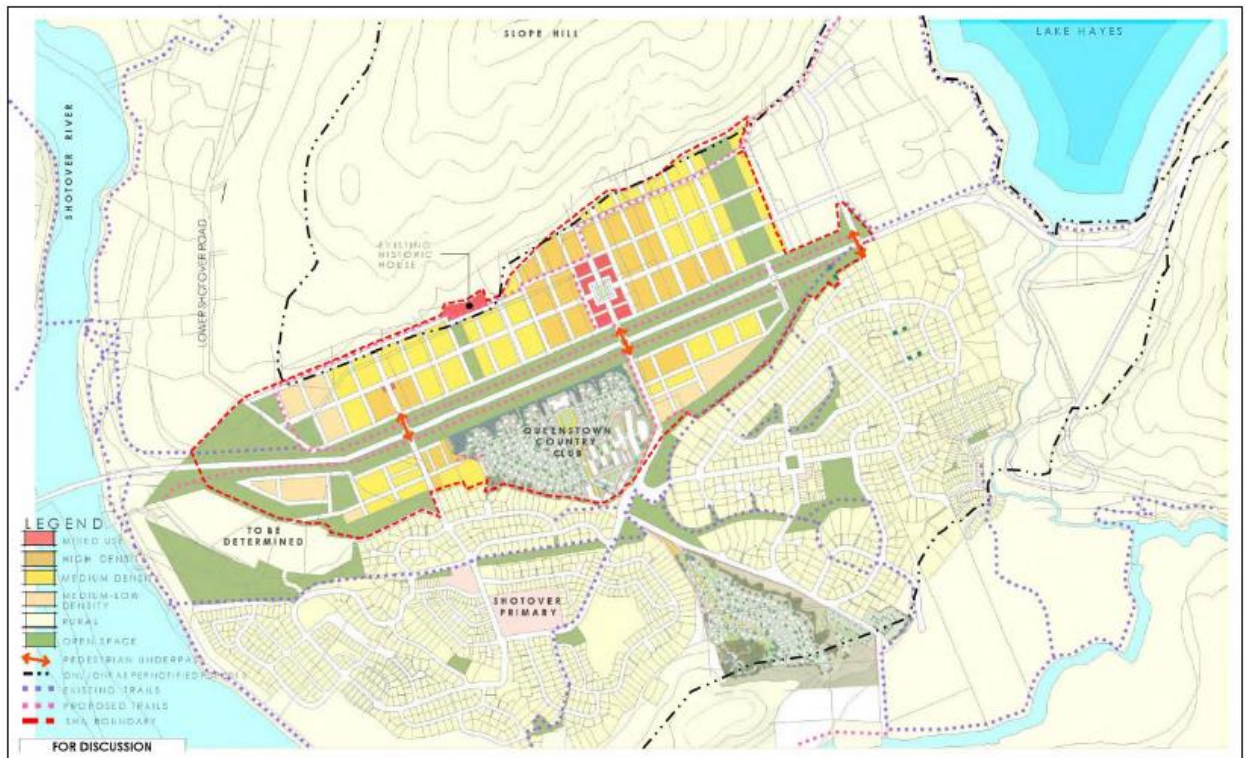
The [Wakatipu Basin] will continue to face pressure to accommodate a high share of population and dwellings growth given its attractiveness to residents and visitors, together with its proximity to the international airport and visitor attractions. Whilst a high growth scenario for the District as a whole should continue to support the feasibility of higher density typologies being achieved in the District's main towns (i.e. within the urban growth boundaries), threats to the PDP's objectives to protect the amenity landscape character of the [Wakatipu Basin] study area are unlikely to diminish. The District will continue to face pressure to extend urban growth boundaries and/or to rezone rural land in order to provide additional dwellings capacity.

3.38 The WBLUS identified the 'Ladies Mile Highway' area as having high landscape capability to absorb development.³⁶ A rating of Moderate-High "is considered to be an appropriate threshold for upzoning."³⁷ Ratings below that level were identified to run the risk of detracting from the high amenity (and other matters).

History: Development efforts within the TPLM Site

3.39 In October 2017 the Council agreed to incorporate parts of the TPLM Site as shown in **Figure 6** into the Housing Accord's Lead Policy.

Figure 6: Indicative Masterplan from Lead Policy



³⁵ WBLUS at [4.2(f)].

³⁶ WBLUS, Figure 1.

³⁷ WBLUS at [1.18].

- 3.40 In July 2018 the Council prepared a detailed business case to the Housing Infrastructure Fund. As stated in the s42A Report, and relevant to the TPLM Site, the detailed business case identified the need for "transport and three waters infrastructure to enable the mixed density residential development of 1,100 lots, and that it would be uneconomic to develop fewer lots; the greater density of 1,100 would be the minimum requirement for affordability and is achievable."³⁸
- 3.41 The s42A Report then describes the history following on from the Lead Policy as follows:³⁹

In April 2019 three SHA proposals for development within the area covered by the Indicative Masterplan were lodged with the Council. These were:

- Laurel Hills (south of SH6 and west of Stalker Drive) – 156 dwellings;
- Glenpanel (north of SH6) – 207 dwellings;
- Flint's Park (north of SH6) – 151 dwellings.

These applications were rejected by the Council, primarily due to traffic and infrastructure concerns. Further, the Council was already recognising the need to masterplan the TPLM area comprehensively.

In 2022 the original Flint's Park SHA application was updated and re-submitted under the COVID-19 Recovery (Fast-track Consenting) Act 2020, seeking around 384 residential units (without a primary school) or 197 (with a primary school), commercial centre, early childhood centre, Glenpanel Homestead retained for commercial use, public open space, and infrastructure.

The Independent Hearing Panel (IHP) refused the resource consent for the project, having regard to the project's effects on the environment and it being contrary to PDP objectives and policies (in Chapters 3, 4, 6 and 22).

- 3.42 The IHP's fast-track decision is presently under appeal (before the Court of Appeal). Mr Gardner-Hopkins informed us that the matter has been delayed pending a Hearing date and our decision.
- 3.43 During the Hearing Mr Gardner-Hopkins also informed us that his client had lodged a new fast-track consent application. That application was lodged on 4 December 2023 and accepted by the Environmental Protection Authority on 8 December 2023. Due to efficiency of process, given the overlap of matters, three members of the Hearing Panel have been proposed to also hear this fast-track application. However, that application has nothing to do with, and has not influenced, our assessment of and decision on the TPLM Variation.

³⁸ Section 42A Report at [6.25].

³⁹ Section 42A Report at [6.27] – [6.30]. See also the Ladies Mile Te Putahi Masterplan Establishment Report (February 2020) pages 49 and 50. (**Establishment Report**)

History: The Council's concern and next steps

3.44 As stated in the s42A Report:⁴⁰

The Council ... has recognised the potential for ad hoc and inefficient urban outcomes at TPLM and has taken steps to deliver a comprehensive and integrated response for an optimal urban development outcome. The Council's steps are generally summarised as follows.

In May 2019 the Council agreed that:

Ladies Mile may be developed for urban purposes in the medium to long term and that a proactive Council led planning approach should be undertaken, taking into account the wide range of community, housing, recreation, transport, green space and infrastructure considerations on Ladies Mile and the surrounding area.

The Council also resolved to undertake an investigation into preparing and notifying a variation to the PDP to provide for an integrated approach to development.

The resolution led to the commissioning and preparation of the Ladies Mile Te Putahi Masterplan Establishment Report (February 2020) which set the direction for the subsequent TPLM masterplanning process. The report considered the various options available to the Council, and was consulted on widely, and concluded that the preferred option would be for the Council to develop a masterplan and associated plan change in parallel, while engaging with the Minister for the Environment about utilising the streamlined planning provisions of the Act for processing the change.

3.45 The Establishment Report's area of focus is Shown in **Figure 7**.⁴¹

Figure 7: Ladies Mile Area of Focus and Influence



⁴⁰ Section 42A Report at [6.31] – [6.34].

⁴¹ Establishment Report, Figure 9.

3.46 The Establishment Report stated:⁴²

The Masterplan will seek to set out a plan for the Ladies Mile area with the community at the centre of all thinking. The aim is to see Ladies Mile developed in a way that improves community outcomes. By integrating transport, community infrastructure, placemaking and design QLDC hopes to make Ladies Mile the most liveable area in Queenstown.

The Spatial Plan

3.47 The Spatial Plan which was developed in a partnership between the Council, Aukaka and Te Ao Marama Inc and the Government (Grow Well | Whaiora). The Spatial Plan:⁴³

... sets out a vision and framework for how and where our District will grow, in this case out to 2050.

The idea is to ensure that future growth happens in the right place and is supported by the right infrastructure, whether that's pipes in the ground, ways of getting around, access to schools, healthcare or other community facilities.

3.48 Having addressed growth and housing issues (see the quotes above) the Spatial Plan proposes a consolidated approach to growth, stating:⁴⁴

Within the existing urban areas of Queenstown and Wānaka, future growth will be focused in locations with good access to facilities, jobs and public transport. This will require enabling higher density development (see page 54 [of the Spatial Plan]) and a greater mix of uses than is currently provided for. New housing will increasingly move towards medium and higher density typologies, such as townhouses, terraced housing and apartments. This will help to increase the variety of housing, including more affordable options.

3.49 The Spatial Plan states:⁴⁵

Three new future urban areas are identified for investigation – at Te Putahi / Eastern Corridor and at the northern and southern ends of the Te Tapuae / Southern Corridor. These locations integrate with existing development and are located on the proposed frequent public transport network. They will support local services, community facilities and provide more affordable housing choices.

3.50 In relation to the TPLM Variation:

- (a) The process involved identification of constraints and records the TPLM Site as having the lowest of three levels of constraints.⁴⁶
- (b) It is identified as:
 - (i) a local centre⁴⁷ in the following way, "[s]maller local, transit-oriented and mixed-use centres are located along the frequent public transport network at Ladies Mile ...";⁴⁸ and
 - (ii) a priority development area⁴⁹ in the following way, "Ladies Mile – A new transit oriented neighbourhood offering new housing choices. Requires

⁴² Establishment Report, page 6.

⁴³ Spatial Plan, page 3.

⁴⁴ At page 51.

⁴⁵ At page 59.

⁴⁶ Spatial Plan, Map 4.

⁴⁷ Spatial Plan, Map 7.

⁴⁸ Spatial Plan, page 59

⁴⁹ Spatial Pla, Map 9.

working in partnership to deliver a public transport solution that will unlock the potential of this site."⁵⁰

- (c) Enabling "a greater mix of housing types in more locations will improve affordability and help match the housing stock to match the future population's needs."⁵¹

The Masterplan

3.51 This process followed the direction from the Establishment Report as set out above. The Masterplan⁵² went through an extensive public process⁵³ and the final masterplan was adopted by the Council in 2022.

3.52 The Masterplan states:⁵⁴

The result of the [establishment] report was that a Masterplan with an associated Variation to the District Plan be prepared to set a direction for the area and ensure the best possible outcome for the community. This Masterplan report provides supporting information for a plan change. It presents a potential future for Te Pūtahi, with an emphasis on a holistic, integrated development that provides improved liveability, community amenity, transport outcomes, and social infrastructure for both existing and future residents of the wider area.

3.53 Feedback on the draft Masterplan:⁵⁵

... indicated that 86% of respondents did not support or had concerns regarding the draft TPLM Masterplan and planning rules. Concerns focused on whether development was appropriate in this location and the impacts on traffic congestion in the area. Positive outcomes identified included the provision of additional facilities (e.g. schools, town centre) and open spaces.

3.54 The Masterplan is a comprehensive document providing detailed provisions including density, zoning (and precincts) and a structure plan. Its influence on the TPLM variation was significant, as anticipated, and is reflected through the:⁵⁶

... [k]ey features of the TPLM Masterplan [which] include:

(a) 'Walkable urbanism' – a wide mix of uses including residential, town centre, open spaces, schools and sports park. The majority of the site is within a 1km walking distance to the town centre commercial hub, which translates into a 10-12min walk. Access to bus stops will be less than 500m for most residents.

(b) A community heart consisting of a mixed use town centre and community sports hub (on Council's 516 site) to serve both the Ladies Mile and the existing residential neighbourhoods of Lake Hayes Estate and Shotover Country.

(c) Retention of existing key heritage features (Glenpanel Homestead).

⁵⁰ Spatial Plan, page 66.

⁵¹ Spatial Plan, page 76.

⁵² Te Pūtahi Ladies Mile Final Masterplan Report (June 2022) (**Masterplan**).

⁵³ Statement of Evidence of Bruce Harland at [52] – [54].

⁵⁴ Masterplan, page 2.

⁵⁵ Statement of Evidence of Bruce Harland at [53].

⁵⁶ Statement of Evidence of Bruce Harland at [58].

(d) Acknowledging the importance of the 'gateway function' that Ladies Mile (SH6) plays for those arriving from the east including views to surrounding mountains. This has been manifested through building setbacks on the north and south sides of the highway and retaining open space qualities around the vicinity of Lake Hayes with the retention of the Wakatipu Basin Rural Amenity Zone.

(e) SH6 Ladies Mile is reimagined through the central part of the corridor as a green, filtered urban edge while maintaining views to surrounding mountains and Slope Hill.

(f) The retention of existing key trees including along the south side of SH6 and around the Glenpanel Homestead.

(g) Provision of active parks and passive open space.

(h) The schools are within 500m of the Town Centre, approximately a 6 minute walk from the Primary School, and less than 5 minutes from the High School. They are also within 500m of the Community and Sports Hub.

(i) Limiting the eastern urban extent of development to avoid encroaching towards Lake Hayes while also protecting a rural gateway experience at the eastern end of Ladies Mile.

(j) Retention of views to mountains through location of open spaces/schools and height limits.

(k) Higher residential densities, with emphasis on active and public transport.

3.55 While the Masterplan is an important background document it is not prepared under, nor undertook the robust assessment required by, the RMA. Despite that, the purpose statement for the TPLM Variation as notified referred to it (and the Spatial Plan) and we received a lot of evidence on it. While it provides context, we did not place weight on it and focused on the TPLM Variation itself. It was apparent, and indeed was the aim, that much of the work from the Masterplan folded into the TPLM variation. Such an approach is acceptable if accompanied by robust s32 evaluation. However, it became clear to us that often matters had been rolled across without such robust assessment resulting in submissions being lodged and changes being sought through the Hearing process which could otherwise have been addressed earlier.

The TPLM Variation

3.56 The TPLM Variation is not the Council's sole response to providing more housing and implementing the NPS-UD.⁵⁷ Rather, it is one of several processes that the Council is advancing to both enable greater intensification of existing urban areas and to provide for other new urban areas (in line with the Spatial Plan).

3.57 The TPLM Variation, as notified, was summarised in the s42A Report as follows:⁵⁸

The TPLM Variation zoning proposes the TPLM Zone for all areas north of SH6 and a mix of the TPLM Zone, the Low Density Suburban Residential Zone (LDSRZ) south of SH6. The TPLM Zone's Zone Purpose statement includes:

The Te Pūtahi Ladies Mile Zone implements the Spatial Plan and Te Pūtahi Ladies Mile Masterplan by providing a planning framework designed to achieve an integrated urban environment. The

⁵⁷ Section 42A Report at [6.9]–[6.10].

⁵⁸ At [6]–[9] and [10.1].

purpose of the Zone is to ensure efficient use of land for the provision of housing within an integrated, well-functioning, and self-sustaining urban community, that is inclusive of communities in nearby zones.

In summary the TPLM Zone objectives and policies promote:

- (a) Development that complements and integrates with development within the Zone and with the existing communities south of SH6 by the spatial structure of key roads, open spaces, green networks, walkways and cycleways;
- (b) A range of residential intensity and diversity of housing choice to promote affordable homes, a self-sustaining community, and efficient use of urban land, including by promoting a tripartite classification of residential precincts: high density, medium density and low density; and requiring minimum densities of residential units in the high and medium density precincts and otherwise managing the total number of residential units throughout the Zone;
- (c) Compact, convenient, accessible and complementary commercial centres to meet the needs of local residents both within the Zone and in the existing Ladies Mile communities;
- (d) A range of compatible activities within the Zone, including schools, community, and commercial activities, and the avoidance of activities that would undermine the intent of the Zone for permanent residences;
- (e) The minimisation of generating additional vehicle trips along State Highway 6; the reduction, as far as practicable, of vehicle trips along State Highway 6 generated by the existing Ladies Mile communities (Lake Hayes Estate, Shotover Country Estate and the QCC); the discouragement of private vehicle use and encouragement of active and public transport modes; and the avoidance of development until specific transport infrastructural works have been completed;
- (f) An attractive built environment with a high level of residential and neighbourhood amenity and high quality urban design outcomes; and
- (g) Development that supports resilience to the current and future effects of climate change.

The layout is governed by a Structure Plan which identifies the key spatial items for development, including roads and active transport links, open spaces, building restriction areas and protected items.

There are six Precincts within the TPLM Zone:

- The Low Density Residential (LDR) Precinct;
- The Medium Density Residential (MDR) Precinct;
- The High Density Residential (HDR) Precinct;
- The Open Space Precinct;
- The Commercial Precinct – providing for town centre-type activities;
- The Glenpanel Precinct, providing a secondary commercial centre based on an historic homestead.

...

The intention is for the TPLM Variation to assist in managing Queenstown's continuing and projected rapid growth, by providing more land for urban use in an efficient way. The provisions would enable around 2100 – 2400 residential units to establish within the TPLM Zone, and would allow the Eastern Corridor to reach a population of around 10,000. The TPLM Zone provisions are intended to complement the existing suburban communities within the Eastern Corridor and in combination with those communities to become a well-functioning urban environment under Policy 1 of the NPS-UD, by:

- (a) Enabling, along with the existing Eastern Corridor communities, a wide variety of homes that would meet the needs, in terms of type, price, and location of different households; including for Māori to express their cultural traditions and norms;
- (b) Contributing to the variety of sites that are suitable for certain business activities in terms of location and site size, for the primary purpose of serving the day to day needs of the Eastern Corridor communities and communities further afield, while taking into account the role of the larger, more regional centre nearby at Frankton;
- (c) Through the requirements for transport infrastructure works to precede development to better enable public transport services and active transport links, providing better accessibility options between housing, jobs, community services, natural spaces, and open spaces;
- (d) Contributing to supporting, and limiting as much as possible adverse impacts on, the competitive operation of land and development markets within the Wakatipu;
- (e) Supporting reductions in greenhouse gas emissions by reducing as far as possible private vehicle trips within and to and from the Eastern Corridor, while requiring and encouraging (through resource consent requirements) attention to sustainability in site and building design; and
- (f) Promoting resilience to the likely current and future effects of climate change through appropriate stormwater management methods.

3.58 The Notified TPLM Variation was accompanied by a detailed s32 Evaluation Report which outlined the TPLM Variation proposal as follows:⁵⁹

This variation is to introduce to the Proposed District Plan (PDP) a new zone (including a suite of objectives, policies and rules) to implement the Te Pūtahi Ladies Mile Masterplan. This variation also recommends associated variations to District wide PDP Chapters 4 and 27 to guide development of the new zone, and Chapters 25, 27, 29, 31 and 36 in respect of consequential amendments to recognise the new zone.

The proposal is for a new Special Purposes Zone, the Te Pūtahi Ladies Mile Zone, and to rezone the land from its current zoning (a mix of Rural, Rural Lifestyle and Large Lot Residential) under the PDP to this new urban zone. Development in the new zone will be governed by a Structure Plan to achieve:

- (a) Additional housing capacity of approximately 2400 residential units in primarily higher density typologies;
- (b) A range of open spaces, including a significant community recreational facility, to benefit the existing nearby communities as well as those to be accommodated in the new urban development;

⁵⁹ At page 1.

- (c) Areas which provide for a range of commercial and service activities catering primarily to local needs;
- (d) Protection of key existing natural features including mature vegetation; and
- (e) Integrated transport and movement networks within and beyond the site, with a particular focus on achieving a significant mode shift to active and public transport.

The proposed provisions of the new Zone seek to strike a balance between providing flexibility of development design while providing clear expectations of anticipated outcomes and, where necessary, directing those outcomes. In summary, the proposed provisions provide for:

- (a) Subdivision that complies with the Structure Plan as a Restricted Discretionary Activity, with no minimum lot sizes;
- (b) A requirement to detail at subdivision stage the methods proposed to achieve a diversity of housing product and how the proposal will achieve the density standards of the Zone;
- (c) A requirement to achieve a specified residential density and avoid single, standalone residential units;]
- (d) A requirement to undertake works relating to transport infrastructure prior to development occurring;
- (e) All buildings to require a resource consent to ensure control over matters of design;
- (f) Additional standards and assessment matters to achieve minimum levels of residential amenity and opportunities to assess sustainability and accessibility outcomes;
- (g) The introduction of maximum parking provisions to promote a shift to active and public transport modes.
- (h) The Variation also addresses the zoning of the Queenstown Country Club land (located south of SH6 and west of Howards Drive) which is subject to and is being developed in accordance with its own consent under the Housing Accords and Special Housing Areas Act 2013.

3.59 We also emphasise that the TPLM Zone is not intended to be, and should not be envisaged as, a stand-alone neighbourhood. We were told that the existing lower-density urban neighbourhood south of SH6 had contributed substantially to existing traffic issues simply because so many of the services and activities needed by residents could only be accessed by way of travel outside of the area (and that the densities delivered could not by themselves support a quality passenger transport service). The TPLM Zone is intended to help rectify this situation and support the existing urban area south of SH6 through access to more local jobs, services (including open space), and commercial activities; and better, more-feasible local passenger transport services along SH6. As our thinking developed across the Hearing, we came to the view that the TPLM Zone is integral to achieving a well-functioning urban environment in the entire area between Shotover River and Waiwhakaata Lake Hayes.

The s32 Evaluation Report

3.60 The Notified TPLM variation was accompanied by a s32 Evaluation Report which summarised the background, consultation and planning history.

3.61 The s32 Evaluation Report summarised the issues as follows:⁶⁰

The planning history summarised above has identified a number of specific matters that need to be responded to. These were summarised in the Ladies Mile Te Pūtahi Masterplan Establishment Report as follows:

(a) It is an area of significance to many locals.

(b) It is considered by some to be part of the 'rural gateway' into Queenstown, and an area that demarks the rural and urban areas of the Wakatipu Basin.

(c) There are currently capacity issues around the State Highway corridor and Shotover Bridge that runs through Ladies Mile.

(d) Land ownership is fragmented.

(e) There are existing issues around parking, community severance and a lack of community facilities serving existing nearby residential communities.

(f) The current residential areas lack a sense of being a cohesive village, there are few facilities and services, so external trips need to be made to carry out everyday tasks.

(g) Some of the Ladies Mile area is classed as highly productive land and consideration of the use of this land in the context of the District needs to be undertaken.

3.62 From this list the s32 Evaluation Report identified four key issues:⁶¹

(a) Population growth and housing affordability.

(b) Safe and efficient functioning of the transportation network.

(c) Efficient use of land.

(d) Existing satellite residential suburbs.

3.63 Having considered the key issues, the outcomes were addressed in the following manner:⁶²

Based on the resource management issues discussed above, in the context of urban growth in the Queenstown / Wakatipu Basin area, the following outcomes are apparent, for enabling people and communities to provide for their social, economic, and cultural well-being and for their health and safety, while addressing the matters in s5(2)(a) – (c) of the Act:

(a) Additional land to accommodate significant population growth, in an area where land suitable for urban development is scarce;

(b) Provision of housing choice, diversity and affordability;

⁶⁰ At page 14.

⁶¹ At pages 14 – 17.

⁶² At page 17.

- (c) Achieving a transport modal shift by promoting and facilitating better public transport options and bringing about a change in everyday travel behaviours;
- (d) Integration of new urban development with existing adjacent urban areas, and complementing these areas by providing new social infrastructure and amenities for the existing and future communities;
- (e) Recognition of key Kai Tahu values, including whanaukataka and haere whakamua, and avoiding discharge to awa; and
- (f) Ensuring that development respects nature conservation values including landscape and ecological values.

3.64 The broad options then considered in the s32 Evaluation Report were:⁶³

- (a) Option 1: The status quo, comprising mostly of a mix of Rural and Rural Lifestyle Zones. This would see the existing PDP zonings retained.
- (b) Option 2: Rezone to a mix of existing PDP zones (including the Lower Density Suburban Residential Zone, Medium Density Zone, and High Density Residential Zone). This would rezone the land and apply the existing provisions within these zones to the land.
- (c) Option 3: Rezone to a Special Zone within the Urban Growth Boundary. This would involve a new zone for urban purposes, including new location-specific objectives, policies and rules to address development, and shifting the current location of the UGB.
- (d) Option 4: Rezone to a Future Urban Zone/Deferred zoning. This would involve protecting the land for its current uses until such a time (either by specified date or circumstances) is reached in which the land can be rezoned for urban purposes.

3.65 These options were applied internally to the TPLM Site. There was consideration of inclusion of QCC in terms of zoning options.⁶⁴

3.66 Having assessed in detail the relevant objectives and policies the s32 Evaluation Report concludes:⁶⁵

The above evaluation has examined the proposed TPLM Zone under section 32 of the Act. The broad conclusions from that evaluation are that:

- a. Under section 32(1)(a), the objectives of the TPLM Zone are necessary and the most appropriate way to achieve the purpose of the Act, taking into account the existing higher order provisions of the PDP and the Regional Policy Statement;
- b. The policies and methods are the most appropriate way to achieve the TPLM Zone objectives, taking into account the locational context, the background reports, the design methodology and resulting masterplan and Structure Plan for the Zone;
- c. The TPLM Zone provisions will be efficient and effective in achieving the objectives, taking into account their costs and benefits including the environmental, social and economic costs and benefits; d. There is no risk of acting given that the provisions manage effects of the activities on the wider

⁶³ At page 18.

⁶⁴ Chapter 10.

⁶⁵ At page 73.

environment; there is no uncertainty in or insufficiency of the information about the subject matter of the provisions. There is risk of not acting as the finite land resource could be lost to inefficient land uses.

Overall, for the reasons expressed above, the TPLM Zone will achieve the higher order objectives of the PDP and the purpose and principles of the Act.

- 3.67 While overall we consider the s32 Evaluation Report was robust, we have addressed below a few instances where we consider additional s32 evaluation would have been beneficial.

The TPLM process

Notification

- 3.68 The TPLM Variation was notified on 27 April 2023. All relevant information in relation to the TPLM Variation can be found on the Council's TPLM Website [Te Pūtahi Ladies Mile Variation \(gldc.govt.nz\)](https://www.gldc.govt.nz/te-putahi-ladies-mile-variation).
- 3.69 Submissions closed on 9 June 2023 and 125 submissions received which sought to have the Variation rejected, accepted or amended for various reasons.⁶⁶ A summary of submissions requested by submitters was prepared and publicly notified on 20 July 2023. This contains the names of submitters, the issues raised, and the changes sought in the submissions and is set out in **Appendix 2** to our report.
- 3.70 Following a further submission period, 25 further submissions in support or opposition of the original submissions were received.⁶⁷

Request for the use of the SPP process

- 3.71 The Council sought direction from the Minister on 31 October 2022 to use the SPP for the proposed TPLM Variation. The rationale for the application (ie addressing the high growth in population, tourism and economy across the District) is summarised in the Council's cover letter to the Minister and is further discussed in its SPP application and the s42A Report.⁶⁸
- 3.72 In its application, the Council outlines how its proposal meets the SPP eligibility criteria including how engaging in an SPP will assist the Council to give effect to the national direction set out in the NPS-UD, reduce the potential for the land at TPLM to be used less optimally and addressing a significant community need for affordable housing.

Minister's direction

- 3.73 The Minister accepted the Council's SPP application and issued a Statement of Expectations dated 20 March 2023. In doing so, the Minister directed specific timing and

⁶⁶ We have counted 125 submissions from the list of Submitter contact details and Summary of Decisions Requested. There are variations in the number of submissions between the s42A Report with 121 submissions and the Council's opening legal submissions with 124 submissions.

⁶⁷ We have counted 25 further submissions from the list of further submitters received on the TPLM website, 3 of which were late submissions. There are variations in the number of further submissions between the s42A Report with 19 further submissions and the Council's opening legal submissions with 24 further submissions.

⁶⁸ SPP Application; Cover Letter to Minister Parker; and s42A Report. Also see TPLM Zone's Purpose statement at chapter 49.1: "*The Te Pūtahi Ladies Mile Zone implements the Spatial Plan and Te Pūtahi Ladies Mile Masterplan by providing a planning framework designed to achieve an integrated urban environment. The purpose of the Zone is to ensure efficient use of land for the provision of housing within an integrated, well-functioning, and self-sustaining urban community, that is inclusive of communities in nearby zones.*"

process requirements to be completed, including the completion of the entire process taking place no later than 260 working days after 30 March 2023 (3 May 2024), being the date in which the Ministerial Direction took effect.

3.74 The Minister's expectations were that the proposed TPLM Variation:⁶⁹

- i. contributes to providing sufficient opportunities for the development of housing and business land to ensure a well-functioning urban environment including maximising opportunities to enable housing, particularly of the typologies identified as a shortfall in Queenstown's Housing Development Capacity Assessment 2021 (housing suitable for older households, smaller households, and lower and lower-middle income households):
- ii. ensures that future development will be undertaken in a manner which recognises the limitations of the existing transport network in this location:
- iii. ensures appropriate and feasible infrastructure is provided for in Te Pūtahi Ladies Mile Zone, including stormwater management that allows for future climate change impacts, and access to everyday needs through transport options that support emissions reduction (such a public and/or active transport):
- iv. ensures future development will be undertaken in a manner that recognises and protects sensitive receiving environments including in particular Slope Hill, Waiwhakaata/Lake Hayes and the Shotover River.

3.75 The Minister also expected that in undertaking the SPP as directed, the Council would:

- i. continue to engage with Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima, Te Rūnaka o Waihōpai and Waka Kotahi/New Zealand Transport Agency throughout the streamlined planning process.
- ii. place on a publicly accessible website the dates and anticipated timeframes for the process steps (with updates as necessary).

Procedural Directions

3.76 On 10 August 2023 we released our first direction which introduced the Hearing Panel and set out how the Hearing process was to be managed to ensure clarity and certainty for all parties during the Hearing and a fair and efficient Hearings process. Subsequent minutes and memoranda responded to various counsel queries and set out high level questions for consideration in advance of the Hearing.

3.77 Vicky Jones, who prepared the summary of decisions requested, was appointed as the Friend of Submitters for the Hearing process. Her role was to assist submitters to understand the SPP process, navigate the Hearing process and prepare for, and present at, the Hearing. Ms Jones' role did not extend to providing any opinion on the content and substance of any submissions, evidence or presentations. We thank her for her efforts through the process.

⁶⁹ "The Resource Management (Direction to Queenstown Lakes District Council to Enter the Streamlined Planning Process for a Proposed Variation to the Queenstown Lakes District Plan – Proposed Te Pūtahi Ladies Mile Plan Variation) Notice 2023" (30 March 2023) *New Zealand Gazette* No 2023-go1172 (**Minister's Expectations**).

- 3.78 The s42A Report was prepared by Mr Brown dated 29 September 2023. It was accompanied by 16 briefs of expert evidence. Many of the Council's experts had been part of the earlier Masterplan exercise.
- 3.79 Pre-Hearing meetings were held on 9-10 October 2023 to clarify issues and attempt to facilitate resolution of issues for submitters who indicated that they wished to be heard and did not provide expert evidence. Helen Atkins was appointed by the Council as an independent experienced RMA practitioner to chair/facilitate these meetings. She prepared the pre-Hearing meeting report dated 13 October 2023, which provided us with the relevant areas of agreement and disagreement, and a summary of the points of submission post the s42A Report. We thank her for facilitating the meetings and preparing her report.
- 3.80 Witnesses, both lay and expert, provided evidence on 20 October 2023. We received 59 briefs of evidence (one was a combined brief of two experts).
- 3.81 During the week of 30 October 2023 (some further conferencing occurred later) expert conferencing took place between expert witnesses on matters that were in dispute. They were facilitated by various experienced practitioners, and we thank them for their management of the process. The expert conferencing identified the issues, points of agreement and disagreement, and technical drafting changes proposed to the TPLM Variation provisions and the technical reasons for those changes, all of which assisted us in making our decision on the evidence. The conferencing enabled greater focus on the key issues in dispute and we thank the experts for their inputs to conferencing.
- 3.82 The s42A Report author (Mr Brown) and expert advisors on behalf of the Council provided 14 drafts of rebuttal evidence on behalf of the Council on 10 November 2023. This evidence responded exclusively to submitter evidence or any joint witness statement arising from expert conferencing. Beyond this, any remaining issues were raised in the Hearing.
- 3.83 Instead of cross examination during the Hearing, submitters were provided with the opportunity to ask written questions of expert witnesses prior to the commencement of the Hearing. Several parties took that opportunity, and we received 12 responses on 24 November and more during the Hearing. We also asked a series of written questions⁷⁰ of the experts before the Hearing. The experts helpfully addressed these in their Summary Statements or during the Hearing.
- 3.84 On 26 November 2023 we undertook a general site visit driving from Queenstown. We visited:
- (a) On the western side of the Shotover River (looking back to the TPLM Site and especially the Extension Area (Anna Hutchinson Family Trust (**AHFT**) land):
 - (i) Noted the roundabouts and formation of SH6, including bus stops, and the view driving down to the Shotover River; and

⁷⁰ On 18 November 2023, available on the Website.

- (ii) Visited Quail Rise, Jims Way, Tucker Beach Road and walked part of the trail (including under the SH6 bridge) and over the old Shotover Bridge;
- (b) On the eastern side of the Shotover River, heading east:
 - (i) Drove down Spence Road to the old Shotover Bridge and viewed the Further Submitter and AHFT land;
 - (ii) Drove along the start of the Lower Shotover Road and viewed the western end and boundary of the TPLM Site and the edge of the AHFT land;
 - (iii) Pulled into the Glenpanel driveway and viewed the TPLM Site and Slope Hill from that location;
 - (iv) Drove along SH6 taking in the TPLM Site to the north (largely excluded by trees) and to the south (QCC, etc);
 - (v) Drove along McDowell Drive viewing the eastern end of the TPLM Site, Slope Hill, the Threepwood site, and Waiwhakaata Lake Hayes; and
 - (vi) Visited the Waiwhakaata Lake Hayes Showground and looked back to the Site from that location (where we turned around);
- (c) On the eastern side of the Shotover River heading west viewed the Dobb's land, the Council owned 516 Frankton, Ladies Mile Highway site (proposed open space zone);
- (d) Turned down Howards Drive and viewed the Doolytle site and the Kawarau local centre before driving through Lake Hayes Estate and Shotover Estate (including the primary school);
- (e) We drove along Max's Way to the entrance to the Corona Trust land and drove along Kahiwi Drive looking at the Koko Ridge land; and
- (f) Then drove via the Stalker Road roundabout back into Queenstown.

3.85 We undertook three further site visits being:

- (a) On 6 December 2023, to walk over the Extension Area (AHFT land), to Glenpanel and being shown around the site (including up onto Slope Hill) and to Threepwood site and being shown around including up to the existing water reservoir at the toe of Slope Hill.
- (b) On 14 December 2023, we drove from Queenstown around Malaghan's Road to view the wider Waiwhakaata Lake Hayes catchment and then looped around the lake and back to Queenstown via the TPLM Site.
- (c) On 15 December 2023, we visited Koko Ridge and had a walk over sub area H2, including looking down to the Corona Trust land.

3.86 In addition, at various times members of the Hearing Panel have driven SH6 and experienced the traffic congestion that occurs. We have also driven along Hawthorn Drive (around the back of the airport) which allows a view back towards the Site, past

Wakatipu High School and through Remarkables Park. Some members of the Hearing Panel have also viewed the TPLM Site from the Remarkables Ski field Access Road.

- 3.87 The site visits and drives around the relevant areas have been invaluable to enable the Hearing Panel to place the evidence and issues in context. The Hearing Panel has been clear throughout that the site visits are not part of the Hearing itself, and while for health and safety and access reasons the panel has been shown around some sites, it has not engaged with people during that process.

Other directions and Minutes

- 3.88 We have released various minutes providing procedural and substantive directions regarding the Hearing. These can be found on the TPLM Website.

Hearing

- 3.89 The Hearing lasted 10 days, commencing with the Council's opening submissions and planning overview on 27 November 2023.⁷¹ The Hearing recommenced on 4 December 2023 and ended on 14 December 2023. The Hearing timetable, including the list of submitters and their experts heard in person, can be found on the TPLM website.
- 3.90 During the Hearing legal submissions and representations were provided, witnesses provided summaries of their evidence in accordance with the Hearing Directions, and representatives and witnesses were questioned by the Hearing Panel. The Hearing was recorded, and video of the Hearing can be found on the TPLM Website.
- 3.91 During the Hearing we asked several witnesses, and parties, to provide us with additional information to respond to questions we had asked. The responses can be found on the TPLM Website.
- 3.92 The Council provided Reply Legal Submissions, and responses to our questions / additional information received from submitters on 26 January 2024. On 30 January 2024 we received Mr Brown's Reply s42A Report (which critically included amended drafting and a s32AA evaluation).
- 3.93 On 8 February 2024, having decided that we had all the information necessary to make our decision, we formally closed the Hearing (and that notice can be found on the TPLM Website).

Draft report process

- 3.94 In accordance with the Minister's direction under clause 78 of Schedule 1 of the RMA we provided a draft version of our report to all submitters on 14 March 2024. Comments were received from several submitters on 27 March 2024 and these were collated, and combined with a response from the Council on 5 April 2024. On the same date Ms Crick also emailed the Council (not at the stipulated address) attaching a newspaper article which we have read but does not alter our position, reasons and recommendation. On 7 April two emails were received from Mr Gardner-Hopkins but did not appear to add anything further from that provided by the Council. We received revised documents from

⁷¹ In compliance with the Minister's timetable directions.

the Council on 8 April 2024 (and an email from counsel for Koko Ridge which reflected a comment already made by the Council). We received further updated Structure Plans and the Zoning Plan, and a memorandum of counsel for the Council and AHFT on 17 April. The change to the Zoning Plan, to include the parcel of land at 33 Shotover Road corrected an unintended omission (and the land to be included was within AHFT's submission) as explained in the joint memorandum. We sought amendments to the Structure Plan on 22 April and received an updated plan on 24 April 2024.

- 3.95 On 29 April we received an email from Mitzi Cole-Bailey.⁷² We recognise that the inclusion of the AHFT land has resulted in necessary changes to the Structure Plan (and other plans) that, as we addressed in our draft recommendation, we do not have ability to prepare. As set out in our Minute of 2 February 2024, the Extension Area sought for inclusion by AHFT (which included more land than contained in the final plans), and what has been proposed in it, has evolved, as is normal, during our hearing process; but we recognise that can be confusing for submitters. All the changes to the Structure Plan that have occurred align with our draft recommendation or were gaps which we have explained in **Appendix 9**. The change to the Zoning Plan is addressed above. All these changes are appropriate (minor and/or technical) and reflect the refinement that occurred through the hearing and decision-making process.
- 3.96 We thank submitters and the Council for the positive and constructive manner with which the responses were provided. **Appendix 9** sets out the comments received and our brief responses. Required additional responses are addressed in the body of our report. We have amended the provisions of the TPLM Variation according to our recommendations as attached in **Appendix 1**.

The legal framework

- 3.97 Our recommendations must accord with the statutory framework stipulated in the RMA and summarised in various Environment Court cases, most recently in *Colonial Vineyard Ltd v Marlborough District Council*.⁷³ As a SPP, our recommendation must also have regard to the Minister's Statement of Expectations prepared.
- 3.98 In **Appendix 6**, we set out the legal framework we have applied, adopting the matters set out in Appendices 2A and 2B of the s32 Evaluation Report, Chapter 7 to the s42A Report, and paragraphs 23-33 and Appendix B of the Council's opening legal submissions. We do not intend to repeat them in full here. While our draft report was released for minor and technical (including legal) comments we did not receive any comments on the legal framework we have applied.

The planning framework

- 3.99 The relevant planning documents in relation to TPLM Variation are the:
- (a) National Policy Statement for Highly Productive Land 2022 (NPS-HPL);
 - (b) National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB);

⁷² Dated 24 April 2024.

⁷³ *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [17]. Endorsed as the latest summary in *Lund v Dunedin City Council* [2023] NZEnvC 186 at [19].

- (c) National Policy Statement for Freshwater Management 2020 (NPS-FM);
- (d) National Policy Statement on Urban Development 2020 (NPS-UD);
- (e) National Planning Standards;
- (f) Otago Regional Council Partially Operative Regional Policy Statement 2019 (PORPS19)
- (g) Otago Regional Council Proposed Regional Policy Statement 2021 (PRPS21)
- (h) Queenstown Lakes District Council Operative District Plan (ODP); and
- (i) Queenstown Lakes District Council Proposed District Plan (PDP).

3.100 The above documents, and their relevant provisions, are discussed in depth in the Appendices 2A and 2B of the s32 Evaluation Report, Chapter 7 of the s42A Report and Appendix B in the Council's opening submissions. We adopt those assessments as to the relevant planning provisions and do not repeat them in full here.

National Policy Statements and National Environmental Standards

3.101 When a local authority prepares a District plan, it must give effect to the National Policy Statements and National Environmental Standards. The National Policy Statements relating to highly productive land, indigenous biodiversity, freshwater management and urban development have been identified as relevant to the TPLM Variation.⁷⁴ The National Environmental Standards relating to air quality, drinking water, contaminated soil and freshwater have been identified as relevant to the TPLM Variation.⁷⁵

3.102 Overall, we agree with the s32 Evaluation Report's finding that the proposal for the TPLM Zone does not introduce provisions that would be inconsistent with any of the relevant NES or NPS.⁷⁶

3.103 We elaborate on our position in respect of the NPS's as follows:

- (a) The NPS-HPL, which came into effect in October 2022, directs regional councils and territorial authorities on the management of "highly productive land". The TPLM Variation land is categorised as Land Use Capability 'Class 2' soil and is made up of a mix of Rural Zone, Rural Lifestyle Zone and Large Lot Residential Zone under the PDP.
- (b) The WLBUS found that:⁷⁷

The premise that the Basin has a dominantly 'rural production type' character is ill-founded, based on our analysis. The nature and extent of approved/existing development results in a completely different character base. The lot size (and ownership) patterns that exist in the Basin

⁷⁴ Section 42A Report at [7.25].

⁷⁵ Section 42A Report at [7.56]. See the Resource Management (National Environmental Standards for Air Quality) Regulations 2004; Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007; Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011; and Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

⁷⁶ At Appendix 2A. See also the S42A Report at [7.57] in respect of the NESs.

⁷⁷ At [7.1(d)].

do not support the characterisation of the Basin as having a dominant rural production landscape character.

- (c) We agree that the NPS-HPL does not apply to the TPLM Variation land due to the underlying existing Rural Lifestyle, Large Lot Residential and Wakatipu Basin Rural Amenity (and Wakatipu Basin Rural Lifestyle for the AHFT land) zoning of land in the TPLM Variation Area not being 'general rural' or 'rural production' for the purposes of cl 3.5(7)(a)(i), and the fact that the land, including the land zoned Rural is "*identified for future urban development*" pursuant to clause 1.3 of the NPS-HPL under the QLDC Spatial Plan 2021.⁷⁸ Similarly the s32 Evaluation Report states:⁷⁹

... as the Te Pūtahi Ladies Mile Zone is identified in the Queenstown Lakes Spatial Plan as a Future Urban Area, policies related to the protection of highly productive land do not apply within the Te Pūtahi Ladies Mile Zone. In addition, the land was rezoned from Rural General in the Operative District Plan to Rural Lifestyle in the Proposed District Plan.

- (d) The NPS-IB, which came into effect in August 2023 (after notification of the TPLM Variation), has the primary objective of maintaining indigenous biodiversity across Aotearoa. The effects on ecology and of subdivision, land use and development on indigenous biodiversity are particularly relevant considerations here. We adopt the s42A Report, relying on the assessment by Ms Palmer, finding that "*there is no SNA identified or required to be identified within the TPLM Variation Area.*"⁸⁰ In relation to the effects assessment on indigenous biodiversity outside of Significant Natural Areas (**SNAs**), we adopt Ms Palmer's opinion that the proposed amendments to the Variation addressed in her evidence will ensure mitigation of the effects to an accepted level.⁸¹ We therefore consider that the Variation gives effect to the provisions of the NPS-IB.⁸²
- (e) The NPS-FM, which came into effect on September 2020⁸³ requires freshwater to be managed in a way that gives effect to Te Mana o te Wai. Te Mana o te Wai refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and wellbeing of the wider environment.
- (f) Te Mana o te Wai encompasses six principles which inform the NPS-FM and its implementation: mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, and care and respect. There is also a hierarchy of obligations in Te Mana o te Wai, which prioritises the health and well-being of water bodies and freshwater ecosystems, followed by the health needs of people and then the ability of people and communities to provide for their social, economic, and cultural well-being now and in the future.

⁷⁸ Opening Legal Submissions for the Council at [32]; and s42A Report at [7.27]–[7.35]. See also *Wakatipu Equities Ltd v Queenstown Lakes District Council* [2023] NZEnvC 188.

⁷⁹ At [1.39].

⁸⁰ At page 47.

⁸¹ Statement of Evidence of Dawn Palmer at [22] and [25].

⁸² Section 42A Report, pages 9 and 47.

⁸³ Most recently amended January 2024.

As addressed in detail in Section 11 below, the stormwater and infrastructure experts agreed at conferencing that the stormwater solution proposed greatly reduces the probability of any discharge to Lake Hayes, except in very extreme events. Mr Gardiner's evidence was that the soakage disposal best mimicked the natural water cycle, adopting water sensitive low impact design principles and incorporating the principles of Te Mana o te Wai.⁸⁴ The evidence of Ms Prestidge was that:⁸⁵

Overall, the reduction in runoff making its way into Lake Hayes will result in "improvement" of the water quality from the TPLM Variation area simply because in most rain events it will be soaked into the ground and into ground water that flows away from Lake Hayes. I note that all of the experts in the JWS have agreed that the proposed stormwater solution is highly unlikely to worsen the water quality of Lake Hayes

- (g) Mr Bathgate for Kāi Tahu supported the amendments proposed by Mr Brown to ensure that the stormwater solutions are integrated.⁸⁶ Mr Bathgate's further amendments were largely accepted in the s42A Reply Report.⁸⁷ We consider the TPLM Zone to be consistent with the provisions of the NPS-FM for the reasons identified in the s32 Evaluation Report⁸⁸ and with the added changes through the Hearing process and which we have added.
- (h) The NPS-UD, which came into effect in August 2020⁸⁹, seeks to achieve well-functioning urban environments, a critical consideration in the TPLM Variation for the reasons identified in Appendix 2A of the s32 Evaluation Report. The Council, as a tier 2 local authority under the NPS-UD, is required among other matters to:⁹⁰
 - (i) provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term;⁹¹
 - (ii) prepare a Housing and Business Development Capacity Assessment (**HBA**) every 3 years, to provide information on housing and business land demand over the short, medium and long term;⁹²
 - (iii) enable height and density of urban form commensurate to the level of accessibility of active or public transport to a range of commercial activities and community services or relative demand for housing and business use in that location.⁹³

⁸⁴ Summary of Evidence of John Gardiner at [5].

⁸⁵ Rebuttal Evidence of Amy Prestidge at [43].

⁸⁶ Summary of Evidence of Michael Bathgate at [6]–[10].

⁸⁷ At [1.4(e)] and [4.18]–[4.21].

⁸⁸ At [1.4] and [1.41].

⁸⁹ Most recently amended in May 2022.

⁹⁰ These matters are also addressed in the s42A Report at [7.53].

⁹¹ Policy 2.

⁹² Clauses 3.19-3.20.

⁹³ Policy 5.

- (i) We consider that the TPLM Variation has given effect to the relevant provisions of the NPS-UD and accept the reasoning put forward by the s42A Report.⁹⁴

3.104 The TPLM Variation has been drafted consistently with the national planning standards, except for the amendments to the existing provisions of the PDP to avoid confusion. This will however be undertaken in due course when the whole of the PDP transitions to the national planning standard conventions.⁹⁵

Regional Policy Statements

3.105 In accordance with s 75(3)(c) of the RMA, the TPLM Variation must give effect to the operative Regional Policy Statement. Section 74(2)(a)(i) of the RMA requires the TPLM Variation to have regard to any proposed Regional Policy Statement. In its submission ORC stated that "*based on the information that has been provided, the proposed variation can be developed in a manner that is consistent with the above provisions from the relevant RPS.*"⁹⁶ In regard to the PORPS19 and PRPS21, we accept that the TPLM Zone meets the policies and objectives for the reasons identified in the s32 Evaluation Report and the s42A Report.⁹⁷

Proposed District Plan and District Plan

3.106 The Council is undertaking a staged review of the Operative District Plan, where Stage 1 was notified in 2015, Stage 2 was notified in 2017, and Stage 3 was notified in 2019. Notification of further stages is expected over the next couple of years, including land not yet reviewed and variations arising from the stages to date.

3.107 Between 2020 and 2022 the proposed planning provisions for the TPLM Site were developed to give effect to the Masterplan. On 27 April 2023 the Council notified the TPLM Variation to the PDP which included associated variations to District wide PDP Chapters 4 and 27 to guide development of the new zone, and Chapters 25, 27, 29, 31 and 36 in respect of consequential amendments to recognise the new zone (as addressed above). We consider that the TPLM Variation is not contrary to the PDP's strategy direction in Chapters 3 and 4 for the reasons identified in the s32 Evaluation Report and the s 42A Report.⁹⁸

Other relevant documents

3.108 Section 74(2A)(a) of the RMA requires the Council to take into account any relevant planning document that is recognised by an iwi authority and has been lodged with the territorial authority where the content has bearing on resource management issues of the District. We concur that the TPLM plan variation takes into account The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 and Kāi Tahu ki Otago Natural Resource Management Plan 2005 for the reasons outlined in the s32 Evaluation Report.⁹⁹

⁹⁴ At [7.50]–[7.55], [10.7] and [14.32]–[14.34].

⁹⁵ Section 32 Evaluation Report at [1.11].

⁹⁶ ORC's submission to the Council on the proposed TPLM plan variation dated 8 June 2023 at [1.14].

⁹⁷ Section 32 Evaluation Report at [1.55] and [1.57]; and s42A Report at [14.20]–[14.24].

⁹⁸ Section 32 Evaluation Report, Appendix 2B at [1.59]; and Section 42A Report at [11.87].

⁹⁹ At Appendix 2B at [1.52]–[1.53].

4. JURISDICTIONAL ISSUE ONE – ARE THE SUBMISSIONS "ON" THE TPLM VARIATION?

- 4.1 Through the process a jurisdictional issue arose with a number of submissions as to whether they were 'on' the plan change. While we were asked to consider these issues prior to the Hearing (in order to save time and cost of parties preparing for a Hearing in a manner they may otherwise not have to) we declined to do so given the process and time pressures on a streamlined planning process and the implications of that on delaying the evidence exchange process.¹⁰⁰
- 4.2 The s42A Report raised several such jurisdictional issues and, through applying the legal advice received, resolved many of them (which we accept).¹⁰¹ We agree with Mr Brown (the s42A Report author) that those submissions are 'on' the plan change. We also agree with Mr Brown¹⁰² that the Copeland, Ferry Hill Trust (96) submission is not on the TPLM Variation.
- 4.3 That left the following submitters:¹⁰³
- (a) The AHFT; and
 - (b) Mr and Mrs Dobb.
- 4.4 In Reply Legal Submissions counsel for the Council set out the reasons for, and concluded that, the Dobb's submission was "on" the Variation.¹⁰⁴ We agree for the reasons set out by counsel and in the evidence for the Dobbs.¹⁰⁵
- 4.5 The only remaining submitter is then the AHFT and we turn to consider whether its submission is "on" the variation. We are mindful that as Kós J observed in *Motor Machinists*, "By law, if a submission is not "on" the change, the council has no business considering it".¹⁰⁶
- 4.6 This section does not contain any substantive assessment of the relevant submissions, it solely applies the legal framework. The substantive decision for the relevant submitters is set out in Section 14. While our draft report was released for minor and technical (including legal) comments we did not receive any comments on the legal approach we have applied in relation to this jurisdictional issue 1 regarding the AHFT Extension Area.

The legal framework

- 4.7 The Council's Opening Legal submissions set out the legal framework. This was accepted as a correct statement of the legal position and there was no dispute that the

¹⁰⁰ See for example our Minute of 18 October 2023.

¹⁰¹ We note that the s42A Report stated that the Doolytle & Son requested rezoning was not "on" the variation and out of scope. Counsel for Doolytle & Son filed a Memorandum of dated 6 November 2023 setting out the rationale for why its submission was on the TPLM variation. The Council's Opening Legal Submissions stated that excluding the Doolytle & Son's submission was a mistake. We agree that the Doolytle & Son requested rezoning is within scope for the reasons set out in the Memorandum.

¹⁰² Section 42A Report, pages 161 and 162.

¹⁰³ Opening Legal Submissions for the Council at [37]. There was also an outstanding issue in relation to GDL's submission to extend the Urban Growth Boundary that we have addressed in Section 14.

¹⁰⁴ Reply Legal Submissions for the Council at [59] – [62].

¹⁰⁵ Statement of Evidence of Blair Devlin

¹⁰⁶ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290, [2014] NZRMA 519 (*Motor Machinists*) at [1].

Motor Machinists decision set out the law. The issues came down to applying the legal framework to the facts relevant to each submission.¹⁰⁷

4.8 As stated in the Council's Opening Legal Submissions:¹⁰⁸

Section 80B of the RMA sets out the purpose, scope and application of Schedule 1 in terms of the SPP. Of relevance, section 80B specifically states that clause 6 of Schedule 1 applies to the SPP. Clause 6 states that:

(1) Once a proposed policy statement or plan is publicly notified under clause 5, the persons described in subclauses (2) to (4) may make a submission on it to the relevant local authority.

It is a well-established principle, grounded in clause 6, that if a submission is not "on" a plan change, then the decision maker does not have jurisdiction to consider the submission.

The Courts have endorsed a bipartite approach when considering whether a submission is "on" a plan change, namely (***Motor Machinists Test***):

(a) Is the relief sought in the challenged submission incidental to, consequential upon, or (perhaps) directly connected to the plan change (or variation)? (**First Limb**)

(b) Have potential submitters been given fair and adequate notice of what is proposed in the submission or has their right to participate been removed? (**Second Limb**)

If a management regime in a planning document for a particular resource is unaltered by the proposed change, a submission seeking a new or different management regime for that resource is unlikely to be "on" the proposed plan change. If the effect of regarding a submission as being "on" a proposed change would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, that will be a "powerful consideration" against finding that the submission was truly "on" the proposed change.

4.9 We have reviewed key relevant cases in **Appendix 7** to provide greater substance and detail to the summary above.

4.10 In Closing Legal Submissions counsel for the Council emphasised the difference in tolerance between full plan change and specific plan change / variation processes.¹⁰⁹ With the former there is a broader ability to argue scope given the gambit of changes applied across all resources in the District. We agree.¹¹⁰

4.11 Finally, in relation to the application of the *Motor Machinist* test, and in particular the second limb, in a SPP process with no appeal rights, counsel for the Council (supported by counsel for the Further Submitters) stated that "[t]his elevates the importance of ensuring that a submission is "on" a proposed change, and providing a real opportunity for participation."¹¹¹

¹⁰⁷ *Well Smart Investment Holding (NZQN) Ltd v Queenstown Lakes District Council* [2015] NZEnvC 214 (*Well Smart Investments*) at [16].

¹⁰⁸ At Appendix B at [54] - [58]. Citations omitted. We note for completeness that the *Motor Machinist* decision records the two aspects of the first limb from *Clearwater*, at [80], as "the breadth of alteration to the status quo entailed in the proposed plan change" and "whether the submission then addresses that alteration".

¹⁰⁹ At [72].

¹¹⁰ Consistent with the Environment Court's comments in *Tussock Rise Ltd v Queenstown Lakes District Council* [2019] NZEnvC 111, [2019] NZRMA 509 at [62].

¹¹¹ Opening Legal Submissions for the Council at [36].

Application to the AHFT Submission

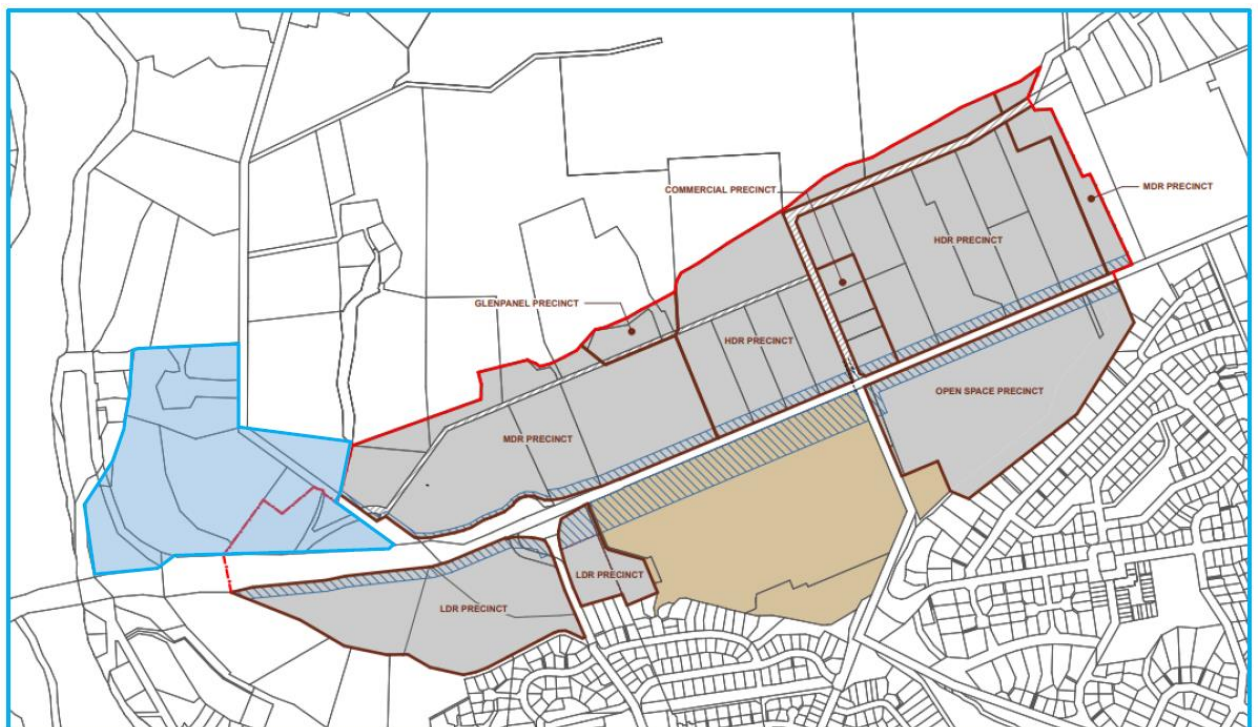
The AHFT submission

4.12 The AHFT submission is summarised at a very high level as follows:¹¹²

The Submitter requests that the Te Pūhahi Ladies Mile Zone is extended to the west, by extending the Urban Growth Boundary and rezoning certain land to Te Pūhahi Ladies Mile Zone; with Medium Density Residential and Low-Density Residential Precincts ...

4.13 The Extension Area (as originally sought) is shown in **Figure 8** below:¹¹³

Figure 8: AHFT Extension Area as shown in its submission.



4.14 The background to the submission is explained in the following way:¹¹⁴

The Submitters' representatives attended the Council's open days in April 2021. The Masterplan team indicated that the Submitters' Land could not be included in the Masterplan because there was already a defensible edge to the masterplan area, being Lower Shotover Road and the cemetery. It was suggested at that time that the Submitter focus their energies on submissions to the QLDC spatial plan, which was proceeding in parallel, as a way to engage with the QLDC on the future planning of the site.

4.15 As noted in our discussion below, between the draft and final Spatial Plan the Extension Area was removed from the priority development area map for Ladies Mile. On this matter the submission states:¹¹⁵

¹¹² Submission 107 at [1].

¹¹³ Submission 107, Figure 3.

¹¹⁴ Submission 107 at [9].

¹¹⁵ Submission 107 at [12] and [13]. The same issue was carried into the reasons for the submission too – see [19].

The Submitter with its experts, appeared at the Spatial Plan Hearings in early May 2021. Inexplicably, and without any evidence to the contrary, the Committee Hearing the Spatial Plan removed the Submitter's land from the Spatial Plan

Exclusion of the Submitter's Land from the Spatial Plan has had significant consequences, as it continued its exclusion from the Masterplan, and then the current Variation. The Submitter understands that no express consideration was given to the inclusion of its land in the development of the Variation (including in the s32 assessment), despite it being part of the Study Area, and there being significant changes in circumstances, such as the loss of the "Threepwood Land" from the Variation area.

- 4.16 The rest of the submission addressed some key issues, including landscape, statutory considerations and set out the relief sought. In those sections the submission summarised the issues related to each matter and the rationale supporting including the Extension Area.
- 4.17 Further submissions on the AHFT submission were received from the Further Submitters,¹¹⁶ Ladies Mile Pet Lodge Limited,¹¹⁷ Park Ridge Limited,¹¹⁸ Graham and Lynne Sim¹¹⁹ and G and S Stalker.¹²⁰ Graham & Lynne Sim were in general support of the AHFT submission though sought a landscape buffer and access amenity area along a common boundary. The Stalker further submission opposed the inclusion of their land in the Extension Area and relocating structure plan roading and the Lower Shotover Road intersection. (The Extension Area was altered by AHFT in evidence to address these matters.¹²¹)

Council's position

- 4.18 In determining that the AHFT submission was not "on" the TPLM Variation Mr Brown in the s42A Report, relying on advice from counsel for the Council,¹²² summarised the position as follows:¹²³

The Extension Area was not notified as being rezoned or included in the TPLM Variation, and therefore there was no analysis within the s32 Report of any change to this land.

This is a significant change to the TPLM such that substantial analysis in s32 Report would have been required for this change.

- 4.19 Additional detail supporting the Council's position was provided in the Opening Legal Submissions for the Council. In summary, the Council's position remained as per the s42A Report on the basis that:

- (a) For the First Limb: ¹²⁴
- (i) There was no alteration to the status quo of the Extension Area under the District Plan as:

¹¹⁶ Dan and Mitzi Cole-Bailey, Dot and Hans Arnestedt, Graeme Rodwell, Les and Lesley Huckins, and Robert and Joy Oakes.

¹¹⁷ Submission 142.

¹¹⁸ Submission 148.

¹¹⁹ Submission 14.

¹²⁰ Further Submission 150.

¹²¹ Statement of Evidence of Werner Murray at [59].

¹²² Appendix C.

¹²³ At page 59.

¹²⁴ Opening Legal Submissions for the Council at [42] – [46].

- (1) TPLM Variation does not propose any changes to the Extension Area; and
 - (2) No land zoned as Wakatipu Basin Lifestyle Precinct (WBLP), as applies to the Extension Zone, is being rezoned by the Variation; and
 - (3) The Urban Growth Boundary (UGB) is not proposed to be extended over the Extension Area (and the s32 Evaluation Report specifically stated that land outside the UGB would remain as per the status quo);
- (ii) "Most importantly" that including the Extension Area "would require *substantial* s32 analysis", including on matters such as the Shotover River ONF;
 - (iii) The AHFT Submission would significantly change the TPLM Variation land area by 1/6th; and
 - (iv) Expert evidence was filed by the Trust after the opening for submissions closed so was not available to the public during the notification stage; and
- (b) In relation to the Second Limb:¹²⁵
- (i) There would be substantial potential prejudice to persons directly or potentially affected by the change sought by AHFT;
 - (ii) While the process does, and here has, allowed further submitters to submit against rezoning the Extension Area that does not remedy the potential for others not to be informed;
 - (iii) The evidence filed by AHFT occurred after the period for submissions had closed and "*does not fill the lacuna of information for the public during the notification stage*";¹²⁶
 - (iv) The SPP context "heightens the concern" of a "submissional sidewind" and while the summary of submissions was clear that extra land was sought to be included that does not itself remedy the lack of notification for others; and
 - (v) There are alternative options available to the Trust, such as a private plan change.

4.20 The Opening Legal Submissions for the Council concluded:¹²⁷

Overall, Council submits that the AHFT is not within scope of the TPLM Variation. It is a significant change, going significantly beyond the ambit of the TPLM Variation and what was assessed in the s32 report, and undermining the rights of potentially affected third parties. . . .

¹²⁵ Opening Legal Submissions for the Council at [47] – [50].

¹²⁶ Opening Legal Submissions for the Council at [44].

¹²⁷ Opening Legal Submissions for the Council at [51].

Further Submitters' position

- 4.21 The further submissions of Dan and Mitzi Cole-Bailey, Dot and Hans Arnestedt, Graeme Rodwell, Les and Lesley Huckins, and Robert and Joy Oakes (**Further Submitters**) are in opposition of the AHFT submission.
- 4.22 Put simply the Further Submitters support the Council's position that the AHFT is not "on" the TPLM Variation, including for the following reasons (which we summarise):¹²⁸
- (a) The submission cannot fairly / on its face be said to address changes to the status quo – if the submission was not made, no planning change would occur to the Extension Area.
 - (b) Therefore, the submission must be within the consequential or incidental amendment exception and it is not as:¹²⁹
 - (i) The scale of the submission is significant (an increase in area of the TPLM Site by 1/6th);
 - (ii) The area is quite separate geographically from the balance of the TPLM Site (separated by Lower Shotover Road) and as counsel explained during the Hearing the 'Ladies Mile' area traditionally applies to the 'flat' SH6 section atop the terraces;
 - (iii) The Extension Area cannot be seen to naturally form part of, or be affected by changes to, the land that has been notified (a person reviewing the notified maps could not reasonably ask the question as to why the additional land had not been included);
 - (iv) There is a strong possibility that the Extension Area would lead to quite different effects and outcomes than what was notified; and
 - (v) The further submission would require substantial s32 analysis and no s32 analysis occurred at all for the Extension Area (noting the advisors for AHFT had some engagement with the Council during the Masterplan process).
 - (c) In relation to the Second Limb:
 - (i) There would be substantial prejudice to persons affected by the AHFT submission (supporting the Council's position);
 - (ii) Parties were not aware of the potential for such a large area being included from the notified Variation and had to rely on reading the submissions summary;
 - (iii) Members of the public with wider interests, such as in the values of the Shotover ONL values, may not (were unlikely to be) have been aware; and

¹²⁸ Submissions for Further Submitters on Jurisdictional Issues, 30 November 2023.

¹²⁹ Submissions for Further Submitters on Jurisdictional Issues at [12] – [18].

- (iv) The SPP process heightens the risk to and implications of potential submitters being unaware as there is no appeal right (supporting the Council).

AHFT's position

- 4.23 The Legal Submissions on behalf of AHFT, while accepting that the legal principles outlined in the Council's Opening Legal Submissions, challenged the conclusion reached based on applying the relevant facts to the law.¹³⁰ Counsel for AHFT submitted "When the law is properly applied to the facts, there is no disqualifying jurisdictional issue with the Trust's relief."¹³¹
- 4.24 Counsel appended to his submissions, and relied on, legal advice provided by Chapman Tripp. That advice provided detailed consideration, and case law review, in support of the arguments run by counsel.
- 4.25 Counsel for AHFT first emphasised the following general points (in summary):
- (a) In relation to the First Limb:¹³²
 - (i) The notified boundaries of the TPLM Variation excluded the Extension Area and also the Threepwood Land to the east (but included the QCC land) illustrating how the boundaries of the zone have fluctuated over time;
 - (ii) The TPLM Variation was preceded by a Masterplan process and the Extension Area is included in part within the Masterplan 'Area of Focus' along with the Threepwood land but not the QCC land; and
 - (iii) Given the fluidity of the land within and outside the TPLM Variation during its genesis it raises the question of "why the Council failed (completely) to carry out any s32 analysis of the Extension Area"¹³³ (and also the Threepwood land), especially when the Extension Area had been identified in Spatial Planning Exercises, "so was clearly on the radar and should have been considered by the Council."¹³⁴ On that basis counsel submitted "there is no small irony that the Council uses its own inadequate assessment of practicable options in its s32 Evaluation Report as a primary tool to raise scope issues, which becomes self-fulfilling from the Council's perspective."¹³⁵
 - (b) In relation to the Second Limb:¹³⁶

¹³⁰ Submissions for Further Submitters on Jurisdictional Issues at [12].

¹³¹ Legal Submissions on behalf of AHFT at [72].

¹³² At [17] – [23].

¹³³ At [22].

¹³⁴ At [23].

¹³⁵ At [12].

¹³⁶ At [24] – [28].

- (i) AHFT proactively served a copy of its submission on a range of parties (including landowners, other submitters and stakeholders)¹³⁷ so that they could further submit on its submission if they wished;
- (ii) Given the extensive past consultation process undertaken leading up to the TPLM variation anyone with an interest in the urbanisation of the area should have become involved in the TPLM Variation process as the possibility of the AHFT (and others) seeking additional land was likely; and
- (iii) The effect of the TPLM being considered through a SPP cuts both way as appeal limitations are especially important for AHFT too.

4.26 Counsel for AHFT also responded to the argument that the status quo zoning (Wakatipu Basin Lifestyle Precinct (**WBLP**)) is not being changed by stating the TPLM Variation does not reflect the policy context and history and that it should have been identified and evaluated in the s32 Evaluation Report (but was not).

Council's Reply Legal Submissions

4.27 In Reply Legal Submissions, counsel for the Council focused on:

- (a) Prior involvement of, and engagement with AHFT, noting that AHFT was not a submitter on the Masterplan,¹³⁸ did not (as far as it was aware) engage with the Council prior to the notification of the TPLM Variation and, while AHFT submitted on the Spatial Plan the Extension Area was not included in the final version;¹³⁹
- (b) 'Fluidity' in the areas to be included between the Masterplan and the TPLM Variation was refuted;¹⁴⁰
- (c) While recognising that inclusion of the extension area within the s32 Evaluation Report is not determinative, it is not whether further assessment is required but whether such assessment would inform the public on the comparative merits of a proposal to inform their submissions (and that in this case "the public was unable to assess the comparative of the submission at the time of notification");¹⁴¹
- (d) That the WBLP zone was not assessed as no land in that zone was proposed to be rezoned and that where an objective of a plan change is by nature site specific a limited analysis of options of the proposal against the benefits may be sufficient.¹⁴²

¹³⁷ As attached as Appendix C to Legal Submissions on behalf of AHFT. We were also informed that a Mr Henry (a landowner) had been notified. Relevantly, the list includes the Further Submitters.

¹³⁸ At [64(e)]. We solely note that AHFT's submission states, at page 4, that it was suggested that the submitter focus on the Spatial Plan as a way to engage with the Council as to future planning of the site.

¹³⁹ This position was fundamentally opposed by AHFT. Before and during the Hearing there were disputes as to what had occurred. Following receipt of the Reply Legal Submissions we received on 7 February 2024 an affidavit on behalf of Mr Murry (dated 5 February 2024) responding to the matters in this paragraph. That response was, in summary that he disputed the Council's position and he fulsomely set out the process he had been involved in, and aware of on behalf of AHFT. That was a sustained effort of engagement. We have however not needed to delve into this issue to reach our decision but record the position of AHFT here for completeness and in case it is relevant in the future.

¹⁴⁰ At [64(e)]. Although our reading of the argument was that it was a broader fluidity between the strategic documents.

¹⁴¹ At [66] and [67].

¹⁴² At [70].

- (e) That the TPLM Variation is a narrow change focused on a discrete area of land (and not a full plan review) stating:¹⁴³

... Ladies Mile has always been a discrete area, the 'ladies Mile' that is being rezoned. Other processes, such as QLDC's spatial plan process or PDP process, in contrast are more similar to *Calcutta Farms*, whereby it is about safeguarding future areas for development.

- (f) That the Council has not been unduly narrow in its focus such as whether a particular lot has had its management regime altered but rather by "assessing whether *any* land [within] the [WBLP] Zone was being altered, which it is not";¹⁴⁴
- (g) That the AHFT site is not, and has never been considered, as part of 'Ladies Mile'; and
- (h) The AHFT site has different effects (such as stormwater catchment) than the rest of the TPLM Site.

Discussion / Application

First Limb

4.28 Applying the case law summarised above and in **Appendix 7**, we address the two limbs in order. In relation to the first limb we are focused on the extent to which the Variation alters the proposed plan, and as:

- (a) The inclusion (or not) of the Extension Area was not assessed in the s32A Evaluation Report. This leads to the question whether "the submission raises matters that should have been addressed in the s 32 evaluation and report."¹⁴⁵
- (b) The TPLM Variation does not alter the zoning of the Extension Area (WBLP)¹⁴⁶ and as such "is unlikely to be "on" the plan change."¹⁴⁷ This leads to a consideration as to whether the zoning change to include the Extension Area is:
 - (i) incidental or consequential to the TPLM Variation; and
 - (ii) whether "substantial further s 32 analysis is required to inform affected persons of the comparative merits of that change".¹⁴⁸

4.29 In order to assess these matters, we have considered, as set out in **Appendix 7**:

- (a) The strategic planning context. In summary, we consider:
 - (i) That the strategic planning has been broadly focused to address the issues, both pressures for and effects of, urban development (housing and associated infrastructure) in the District.
 - (ii) That an integrated and co-ordinated approach to efficiently using scarce available land be adopted.

¹⁴³ At [77].

¹⁴⁴ At [79(b)].

¹⁴⁵ *Motor Machinists* at [81]

¹⁴⁶ *Motor Machinists* at [81]. We note that it does alter some of the neighbouring Wakatipu Basin Rural Amenity Zone.

¹⁴⁷ *Motor Machinists* at [81].

¹⁴⁸ *Motor Machinists* at [81].

- (iii) That within the broad urban development policy the Extension Area has been included for development at times, and excluded, through the policy background leading to the TPLM Variation such that we agree with counsel for AHFT that there has been some fluidity about the land being considered.
 - (iv) That the Extension Area has been subject, at a strategic level, to analysis, and identification of the potential for urban development (as part of the Eastern Corridor).
- (b) The purpose of the TPLM variation. In summary, we consider that the purpose (reflecting the RMA issues being addressed) is broad in nature, to achieve efficient and integrated use of land for housing, commercial activity and more-viable passenger transport outcomes (in terms of the scale of population) including so as to improve the way that all persons living in the area between Shotover River and Waiwhakaata Lake Hayes can enable their wellbeing and a well-functioning urban environment. It is not intended to address resource management issues solely and wholly within the specific area of land notified by the Council as sitting within the TPLM Zone. The notified version TPLM Zone purpose statement ties to the Spatial Plan and through that expressly mentions the "Eastern Corridor" (within which the Extension Area sits), again reflecting a broad scope. While developed as a site-specific variation, we do not consider the TPLM Variation to be unduly narrowed in purpose for the reasons above. Rather, consideration and potential inclusion of adjacent areas seems to us to align very directly with its purpose (and its wider and strategic issues).
- (c) The nature and scope of the TPLM Variation. In summary, while the TPLM Zone is site specific the TPLM Variation fundamentally changes the underlying zoning of the TPLM Site (which *excludes* the WBLP zone) and fundamentally alters the PDP by proposing an entirely new zoning (Te Pūtahi Ladies Mile Zone - Chapter 49) to it. Therefore, we consider that the TPLM Variation is not a 'narrow' variation in terms of content and, for the areas affected, is a significant zoning change from the status quo.

4.30 We also briefly address the availability and viability of other process options. As stated in the Opening Legal Submissions for the Council¹⁴⁹ there are other avenues for AHFT to seek to amend the zoning over the Extension Area. There are always (depending on limitations under cl 25(4) of Schedule 1 of the RMA) planning and consenting options open. In this case though it would be very challenging (for example a resource consent application given the zoning) and lead to the ad hoc processes that have occurred in this area over the last nearly 10 years. Co-ordinated and integrated development is required and the TPLM Variation was developed to avoid any more of that.

4.31 We recognise that these other options provide "procedural safeguards"¹⁵⁰ (in particular in terms of s32 analysis and 'upfront' submissions (although the further submission process

¹⁴⁹ Appendix B at [65].

¹⁵⁰ *Motor Machinists* at [78].

is a deliberate, and clear, statutory process)). We also recognise that it transfers the cost of assessing the merits of including the new area back to the community.

Does the AHFT raise matters that should have been assessed in the s32 evaluation?

- 4.32 Having carefully considered the facts we consider that the submission does raise matters that should have been considered in the s32 Evaluation Report. That is not just in relation to AHFT, but in relation to statutory role of the s32 Evaluation Report and in providing robust assessments for the wider public of the District given the significance of the issues and the need to efficiently use scarce land resources (as recognised in the s32 Evaluation Report). Housing provision, efficiency and location matters, as raised in the AHFT submission go to the core of the TPLM Variation.
- 4.33 Put simply, the proposed zone is a method to implement TPLM Zone objectives and policies. Confirming the most appropriate spatial form and extent of the TPLM Zone is just as essential to the required s32 evaluation as testing the provisions governing development within that area. To that end, and in response to the arguments put to us that the Spatial Plan and Masterplan thoroughly tested all aspects of the proposed Zone's extent and form, we note that neither the Spatial Plan or Masterplan included detail or evaluation of alternative zone extents or configurations or why the one preferred by the Council was the most appropriate of those in a way that might compare with the RMA's requirements.
- 4.34 In our view the Extension Area is not an isolated area from the TPLM Site but rather integrated to, and co-ordinated with, it through the issue and purpose of the TPLM Variation, as well as at geographic, policy development, infrastructure, and natural constraints levels. We recognise that the Masterplan process delivered a specific and clear structure plan and zone area. But, as above, the Masterplan is not an RMA document and does not replace (and due to its content does not fulfil) the s32 analysis we consider, in this specific case, should have occurred for the Extension Area.

Is the AHFT incidental or consequential to the TPLM Variation?

- 4.35 Given our discussion of the strategic policy, purpose and scope of the TPLM Variation above, and in **Appendix 7**, we consider that the Extension Area is incidental and consequential to the TPLM Variation, in particular:
- (a) Geographically, the Extension Area is adjacent to the TPLM Site (and abuts the amended Urban Growth Boundary (**UGB**)). It forms part of the general Ladies Mile area being to the west of the Shotover River and ties into the TPLM Site. We accept that it is not wholly located on the flat land atop the terraces. While that area may be considered 'Ladies Mile' it is clear to us from the strategic policy documents that a wider area than typically considered for Ladies Mile has been viewed over time. We also recognise that the Koko Ridge part of the TPLM Variation sits below the 'flat' area. Given the District wide housing pressures, and the many constraints within the Wakatipu Basin necessitating efficient use of scarce land, having a wider view point makes, in our view, sound strategic planning sense.

- (b) In a physical infrastructure sense, the Extension Area adjoins Lower Shotover Road and aligns with the use of that road, and future new Stalker Road intersection. It can utilise and align with water and wastewater services.
- (c) In relation to natural resources, the strategic documents consider the Extension Area to have similar natural capacity constraints to the TPLM Site. We have mentioned the capacity constraints above, and in **Appendix 7**, assessments of which have generally included, in part, the Extension Area. While we recognise the Extension Area is within a different landscape unit to other parts of the TPLM Site it is on the immediate boundary of three landscape units and within a Landscape Character Unit (**LCU**) which the strategic documents consider has capacity for potential urban development at similar levels to the TPLM Site.

Is "substantial" additional s32 analysis is required?

- 4.36 Case law is clear as to the fundamental role the s32 Evaluation Report provides, both in terms of meeting RMA requirements (and delivering sound planning outcomes) but also in ensuring there is sound information for submitters to inform them on their submission.
- 4.37 As mentioned above, the s42A Report concludes that "substantial" extra s32 analysis would be required to address the AHFT submission. That is also the position of counsel for the Council and for the Further Submitters. It was also a matter we addressed during the Hearing. The question here is not related to the substance of the AHFT submission and evidence (and the level of detail in it) but rather what is within the s32 Evaluation Report (including its attached technical reports) and whether, a substantial additional assessment is required to inform submitters (which we have kept front of mind).
- 4.38 The section 32 Evaluation Report does not evaluate the Extension Area. It does not, as mentioned above, undertake an options assessment of including the Extension Area (or any land to the west) within the TPLM Variation. Having not evaluated the Extension Area one could argue given its size and differing location that any additional assessment must be "substantial". That especially (given s6 of the RMA) relates to matters such as landscape (and a different LCU being affected and being adjacent to the Shotover River ONF), heritage (additional heritage features associated with the old Shotover Bridge), ecology (Shotover River terraces) and stormwater (different catchment). However, we think it is more nuanced than that and again the facts must be carefully analysed.
- 4.39 We have carefully considered the s32 Evaluation Report (and discussed it above and in **Appendix 7**). In relation to enabling a submitter to make a comparative assessment it clearly identifies many elements (including key policy documents, key issues, attributes and outcomes) that apply to the Extension Area.
- 4.40 While AHFT's submission seeks changes to the TPLM Variation provisions (and generally applies those provisions to the Extension Area) they are not at a level requiring substantial additional s32 assessment. Rather, it is an assessment of the efficiency and effectiveness of including the Extension Area. In that respect the TPLM Zone purpose statement in the notified version, referred to above, is important. It refers to the Spatial Plan, ensuring efficient use of land for the provision of housing and the Eastern Corridor

(within which the Extension Area sits). In relation to the efficient use of scarce land the s32 Evaluation Report sets out the attributes that make land in the basin suitable for accommodating significant population growth.¹⁵¹ It just does not apply those attributes to the Extension Area and consider whether it should be included or excluded. Doing so would not be, in our view, a substantial undertaking (and as above also one which we consider should have occurred).

- 4.41 In **Appendix 7** we have considered the various technical reports appended to the s32 Evaluation Report in greater detail in relation to those s6 matters listed above. Having done so we do not consider that they would require "substantial" change (in particular in relation to the costs and benefits of including the extension area). While changes would have been required to the s32 Evaluation Report if the Extension Area (and WBLP zoning) were included in the TPLM Variation (at least for consideration), we consider that such changes necessary to the s32 Evaluation Report (and its technical assessments) to inform affected persons, and potential submitters, of comparable merits would not be "substantial".
- 4.42 If we are wrong with that assessment, and recognising the s 6 matters in play, it is worth briefly considering the implications of a different finding. If we considered that a "substantial" additional s32 assessment was required we would have also considered:
- (a) That not one individual assessment itself is necessarily determinative of the ultimate question as to whether the AHFT submission is on the TPLM variation;
 - (b) That we consider the s32 Evaluation Report should have considered the AHFT submission and Extension Area; and
 - (c) That, while not determinative, the AHFT submission provided additional information that would have assisted potentially affected people to effectively respond to the issues in making a submission (which indeed occurred).

Conclusion on the First Limb

- 4.43 Overall, while we need to be clear that a single matter is not determinative, and we are focused on the persons potentially affected by AHFT's submission, for the reasons set out above, we consider that the AHFT's submission reasonably falls within the ambit of the TPLM Variation.

Second Limb

- 4.44 We next consider the Second Limb and **Appendix 7** contains reference to case law that we have applied. We recognise the key importance that persons directly, or potentially directly, affected by the changes sought by the AHFT submission can effectively respond to those additional changes.¹⁵² The question is: "was there a real risk that persons directly affected, or potentially affected by the changes sought through the AHFT submission have been denied an effective response?" We have also kept front of mind that the core focus is on the public at large.

¹⁵¹ At page 16.

¹⁵² *Motor Machinists* at [82].

4.45 In this case:

- (a) Directly affected neighbours,¹⁵³ some landowners with the TPLM Site¹⁵⁴ and some key stakeholders¹⁵⁵ were given prior notice of the AHFT submission;
- (b) From our review above, and in **Appendix 7**, the Extension Area (or at least part of it) is identified in the main strategic policy documents such that we consider that those interested in urban development of the general area would have been aware of the potential for the TPLM Site to be sought to extend to the west (or in other locations); and
- (c) Council's summary of submissions¹⁵⁶ clearly identifies that the AHFT seeks the inclusion of the Extension Area and the type of development proposed for the area such that anyone reading it would be clear as to what was proposed.

4.46 None of these matters are individually determinative. But, given this situation we find:

- (a) That the context and strategic policy development, the significant issue of housing in the District and scarcity of suitable land, the considerable information available and the further submission process that the general public (including the likes of the residents of Dalefield, Shotover and Quail Rise) would, if interested, have made the general public awake to the potential of additional development in the Extension Area and therefore reasonably able to have been involved;
- (b) That directly affected people were provided with the opportunity to be involved (and some did so); and
- (c) That some generally affected people (and organisations) were informed and could have become involved.

4.47 We consider that people potentially affected (including the public generally), and those directly affected, were adequately informed of the potential for additional land to be sought to be included in the TPLM Variation and what was proposed by AHFT. Therefore, they were able to make a submission if they wished. No affected person would, in our view, be left 'speechless' at a later stage. Neither do we consider that there was a real risk that a directly affected person, or a potentially affected person (including the public generally) was denied the opportunity to participate. This was not, in our view after careful analysis, a submissional sidewind.

¹⁵³ Dorothy Anne Arnestedt, Hans Johan Arnestedt; James Raymond Bailey, Daniel Paul Cole-Bailey, Mitzi Melita Cole-Bailey; Lesley Mary Huckins, Leslie Huckins; Joy Elizabeth Oakes, Robert Vincent Oakes; Graeme Harold Rodwell; Graham Douglas Sim, Lynne Anderson Sim; Jessica Kathleen Coutts, Mathurin Paul-Laurent Molgat; Julian Brendon Chisholm, Justin Paul Chisholm; and Grant and Sharyn Stalker. During the Hearing counsel added Mr Henry (a landowner) to this list. Mr and Mrs Oakes mentioned receiving this letter in their statement attached to the Evidence of Mr Geddes.

¹⁵⁴ GDL, Flint's Park Limited; Ladies Mile Landowners Consortium.

¹⁵⁵ Queenstown Lakes Community Housing Trust; Queenstown Lakes District Council (Parks & Reserves); Queenstown Trails Trust; Kāinga Ora; Waka Kotahi; Otago Regional Council; Aukaha Limited; and Te Ao Marama Inc.

¹⁵⁶ Summary of Decisions Requested.

Findings

4.48 Having considered the submissions and relevant material in detail above, and applied it to the facts of this case, it is our finding that AHFT's submission is "on" the TPLM Variation, and we make that recommendation to the Minister. Therefore, we can consider, in a substantive sense, the merits of the AHFT submission in Section 14.

5. JURISDICTIONAL ISSUE TWO – IS RELIEF SOUGHT WITHIN SCOPE?

5.1 Before recommending any amendments to the TPLM Variation, we must consider whether there is scope to make such amendments. This involves determining whether any amendments are within the scope of a submission such that the Court has jurisdiction to make the amendments. While our draft report was released for minor and technical (including legal) comments we did not receive any comments on the legal approach we have applied in relation to this jurisdictional issue 2.

5.2 Pursuant to the directions of the Minister, this report outlines how the submissions have been considered and whether any modifications have been made to the TPLM Variation based on them.

5.3 We accept the legal framework on scope as outlined in Appendix C to the s42A Report:¹⁵⁷

Case law has established that for an amendment to be considered within the scope of submissions, the amendment must be fairly and reasonably within the general scope of:

- (a) An original submission; or
- (b) The plan change or variation as notified; or
- (c) Somewhere in between.

The question of whether an amendment goes beyond what is reasonably and fairly raised in submissions will usually be a question of degree, to be judged by the terms of the plan change (or in this case the TPLM Variation) and the content of submissions. This should be approached in a realistic workable fashion rather than from the perspective legal nicety, with consideration of the whole relief package detailed in submissions.

Further, the courts have recognised that councils need scope to deal with the realities of the situation and a legalistic interpretation that a council can only accept or reject relief sought in any given submission is unrealistic. Approaching such amendments in a precautionary manner, to ensure that people are not denied an opportunity to effectively respond to additional changes in the plan change process, has also been endorsed by the courts.

Changes that are considered to be incidental to, consequential upon, or directly connected to a plan change are also considered to be within scope.

An amendment can be anywhere on the line between the plan change/variation and the submission. Consequential changes can flow downwards from whatever point on the first line is chosen, as a submission may only be on an objective or policy, but there may be methods or rules which are then

¹⁵⁷ Section 42A Report, Appendix C at [10]–[15].

incompatible with the new objective or policy in the proposed plan change as revised, which would then also require an amendment, as a consequential change.

Further, amendments required for clarity and refinement of detail are allowed on the basis that such amendments are considered to be minor and un-prejudicial.

5.4 We agree with the Council that when it comes to the potential relief/amendments that can be made to the Variation, it is:¹⁵⁸

...not confined purely to the words used or suggested by a submitter – the important consideration is the intent of the submission, and whether the proposed amendment is reasonably and fairly raised by the submission itself.

5.5 The Council recognised several jurisdictional issues in relation to relief. We agree with the Council's position in its Reply Legal Submissions that:

- (a) The relief sought by Doolytle and Son to rezone to a 'neighbourhood centre' is within scope of its original submission.¹⁵⁹
- (b) The relief sought by Koko Ridge to retain the Low Density Residential Precinct (Sub-Area H2) zoning, but providing for some Medium Density is within scope of its original submission.¹⁶⁰
- (c) The relief sought by Waka Kotahi in relation to additional infrastructure upgrades is within the scope of its broader submission.¹⁶¹
- (d) The recommended relief in relation to GDL submission (including increased heights) is within scope of its original submission and general support submission.¹⁶²
- (e) The relief proposed by Mr Brown in light of concerns and engagement (including evidence) between Council, Kāi Tahu, Friends of Lake Hayes Society Inc (**FOLH**) and the general public as well as expert evidence on stormwater and ecology to better integrate stormwater solutions, is within scope of the broader submissions.¹⁶³
- (f) The recommendation by Mr Lowe on accessibility within dwellings is unlikely/not within scope due to the issue not directly being addressed in submissions.¹⁶⁴ However, Mr Brown proposed some narrow amendments reflecting accessibility (to which we have made minor changes) and we have accepted them as being within scope of many of the general submissions received, including in relation to the nature of, and functionality for the future residents in, the new higher density urban environment.

¹⁵⁸ Closing Legal Submissions for the Council at [93].

¹⁵⁹ At [96].

¹⁶⁰ At [97].

¹⁶¹ At [102].

¹⁶² At [103] and [105].

¹⁶³ At [107].

¹⁶⁴ At [109].

6. ISSUES

6.1 The key issues for us to consider are:

- (a) Cultural;
- (b) Ecological;
- (c) Landscape and amenity/visual values;
- (d) Parks and open space;
- (e) Stormwater;
- (f) Transport; and
- (g) The TPLM provisions (including the purpose, zoning, structure plan, density and other key elements).

6.2 These key issues are all addressed under their own sections below.

6.3 We have also considered a range of landowner specific / rezoning issues relating to new areas proposed to be added to the TPLM Variation and various changes sought by landowners within the TPLM Site. These are addressed in Section 14.

6.4 Finally, we have addressed in summary form (referring to the relevant sections of our report) submissions by lay submitters who presented at the Hearing and on general points raised in submissions. These are all set out in **Appendix 8**.

7. CULTURAL

Introduction

7.1 The Statutory Acknowledgment for Whakatipu-wai-māori (Lake Wakatipu) tells the story of its connection to Kāi Tahu which dates back to its discovery generations ago by tūpuna Rakaihautu and his party from the Uruao waka.¹⁶⁵ One of the lake's most well-known creation stories starts with Te Rapuwai coming across a giant tipua, known as Matau, who was laying at what is now the bed of the lake in a deep sleep. The pūrākau goes as follows:¹⁶⁶

Matau had been responsible for the disappearance of many small hunting parties and had entrapped a beautiful maiden, Manatā. The father of Manatā offered her in marriage to the man who could bring her safely home. Matakauri, who was in love with Manatā, ventured forth, discovering that Matau slept when the northwest wind blew. Matakauri selected a day when the wind was blowing the right way and set forth. He found Manatā and, using his mere, he attempted to sever the bonds which held her, but try as he would he failed. Manatā began to sob bitterly, and as her tears fell on the cords, they melted away. Matakauri carried Manatā back to the village where they became husband and wife. However, Matakauri knew that while Matau lived no maiden was safe, so he set forth when again the northwest wind blew, and set fire to the large growth of bracken that acted as a bed for the giant. Matau was smothered in flames, the fat from his body augmenting the fire, until the blaze was so fierce that it

¹⁶⁵ Ngāi Tahu Claims Settlement Act 1998, sch 75.

¹⁶⁶ Ngāi Tahu Claims Settlement Act 1998, sch 75.

burned a hole more than 1,000 feet deep. The snow on the surrounding hills melted and filled the hole, which is known today as Lake Wakatipu.

7.2 The Statutory Acknowledgement also highlights the significance of Whakatipu-wai-māori to Kāi Tahu:

Whakatipu-wai-māori is an important source of freshwater, the lake itself being fed by hukawai (melt waters). These are waters with the highest level of purity and were accorded traditional classifications by Ngāi Tahu that recognised this value. Thus it is a puna (spring) which sustains many ecosystems important to Ngāi Tahu. The mauri of Whakatipu-wai-māori represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life.

7.3 The Wakatipu region and lake supported permanent settlements, including several kaika (village). These kaika were originally linked by traditional trails crossing Te Pūtahi Ladies Mile area. Submissions from Te Rūnanga o Ngāi Tahu, Aukaha and Te Ao Marama on behalf of the respective Papatipu Rūnanga provide detailed evidence on the cultural significance of Te Pūtahi Ladies Mile which falls within their shared takiwā (territory).¹⁶⁷

7.4 The Ngāi Tahu Deed of Settlement 1997 and the Ngāi Tahu Claims Settlement Act 1998 recognises and confirms the rangatiratanga of Kāi Tahu and its intrinsic relationship with the natural environment and whenua within its takiwā. Consequently, there is an expectation that any policy or management regime within its takiwā is developed and implemented in partnership with Kāi Tahu.

7.5 For all purposes, Te Rūnanga o Ngāi Tahu is the statutorily recognised representative tribal body of Kāi Tahu whānui and is responsible for managing, advocating and protecting the rights and interests of Kāi Tahu.¹⁶⁸ Notwithstanding this Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own submissions and responses on matters impacting them. The Papatipu Rūnanga who have shared interests across the Queenstown Lakes District are:

- (a) Te Rūnaka o Awarua
- (b) Te Rūnanga o Hokonui
- (c) Te Rūnanga o Moeraki
- (d) Ōraka Aparima Rūnaka
- (e) Te Rūnanga o Ōtākou
- (f) Kāti Huirapa Rūnaka ki Puketeraki
- (g) Waihōpai Rūnaka

7.6 Kāi Tahu has been involved in several stages of the process, including:

- (a) noting its interests in TPLM Zone in regard to any matters that relate to treaty relationships, kaitiakitaka and whanaunangatanga;¹⁶⁹

¹⁶⁷ Submission 100.

¹⁶⁸ Te Runanga o Ngai Tahu Act 1996, s 15.

¹⁶⁹ Submission 100 at [3.1].

- (b) supporting the advice provided to the Council by Aukaha and Te Ao Marama as part of the working group that developed the master plan and plan provisions;¹⁷⁰
- (c) supporting the intent of the TPLM Variation with specific amendments or additions to better incorporate the broader interests and aspirations of Kāi Tahu within the Queenstown-Lakes District and to improve outcomes for te taiao. Kāi Tahu considered that the Variation will:¹⁷¹
- Better achieve the purpose of the variation to provide for a well-functioning and self-sustaining urban environment;
 - Respond to the vision, aspirations, objectives and design principles within Te Pūtahi Ladies Mile Masterplan;
 - Give effect to the Kāi Tahu values that informed the planning framework;
 - Respond to Kāi Tahu concerns regarding the mauri and health of Waiwhakaata Lakes Hayes, the Kawarau River and other nearby water bodies;
 - Give effect to the National Policy Statement for Freshwater Management, particularly in relation to integrated management and Te Mana o te Wai;
 - Be consistent with the Proposed Otago Regional Policy Statement 2021;
 - Take into account the relevant iwi management plans as required under s 74(2A) of the RMA;
 - Have regard to the outcomes sought by the QLDC Parks and Open Spaces Strategy 2022; and
 - Consequently, discharge the council's duties under s 32 of the RMA.

Discussion

7.7 Our approach took account of all submissions on cultural, customary, traditional and mana whenua values. We had specific regard to the submissions from Aukaha and Te Ao Marama on behalf of Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu which raised concerns with how stormwater from the TPLM Variation area will be managed when developed, including the effects on receiving water bodies, and wider ecological effects arising from urban development of the TPLM area.¹⁷² The evidence provided at the Hearing by Mr Bathgate and Mr Davis in regard to the mauri of the wai and the whenua (water and land) associated with Te Putahi Ladies Mile assisted in shaping our thinking on Te Mana o te Wai matters.

7.8 At the Hearing Mr Davis spoke at length on the importance of the Waiwhakaata catchment and its restoration through the Vision Lake Hayes project. He acknowledged the collective of Mana Whenua, Matawaka and Takata Tiriti, whom have taken a ki uta ki tai approach to the management and restoration of Waiwhakaata Lake Hayes. He identified the large number of stakeholders in the catchment including, but not limited to

¹⁷⁰ Submission 100 at [5.1].

¹⁷¹ Submission 100 at [6.1].

¹⁷² Section 42A Report at [11.215].

the FOLH, Council, Otago Regional Council, Department of Conservation (**DOC**) and mana whenua that have been working to improve and restore the mauri of te wai. This reinforced the commitment from the entire community to this kaupapa, which will be clearly reflected in the provisions in relation to the management of the three waters considerations of the TPLM Variation. The importance of having these stakeholders around the table, working in partnership and collaboration was not lost on us recognising that the TPLM Zone represents a very small part of the catchment that drains into Waiwhakaata Lake Hayes, and significant action well beyond the TPLM Variation we are considering remains necessary.

- 7.9 Mr Bathgate in his evidence focused on the amendments sought by Kāi Tahu in relation to the statutory and Planning Framework, Kāi Tahu Values, Blue-Green Network and Stormwater Management. An integrated stormwater management system, forming part of a blue-green network that emphasises ecological connectivity is, in Mr Bathgate's opinion what is in part required to meet the challenge laid by Mr Davis. Mr Bathgate generally agreed with the amendments proposed by the s42A Report in response to the submissions with some further amendments.
- 7.10 Mr Bathgate responded to questions in relation to stormwater effects on the wider catchment. He stated that achieving the 1%AEP to ground, the establishment of secondary flow paths and the treatment of flows from a 1%AEP event is a step up from the rest of the catchments.
- 7.11 In relation to Te Mana o te Wai and the NPS-FM, the evidence of Ms Prestidge was that all three waters could be appropriately managed to give effect to Te Mana o te Wai.¹⁷³
- 7.12 Mr Brown, in his s42A Report, and picking up on the Council expert evidence, agreed to the addition of numerous amendments sought by Kāi Tahu.¹⁷⁴ During the Hearing¹⁷⁵ Mr Bathgate accepted that much of the relief sought had been accepted¹⁷⁶ but raised several matters to strengthen integration.¹⁷⁷ In his Reply s42A Report, Mr Brown proposed provision of stormwater swales on the Structure Plan and also redrafting of Policy 27.3.24.7 in line with the changes sought by Mr Bathgate. We consider that the changes made by Mr Brown are appropriate and that the provisions now appropriately reflect and address the concerns raised by Mr Bathgate. We also accept and adopt Mr Brown's s32AA evaluation. Stormwater matters are addressed in detail in Section 11 below.

Findings and recommendation

- 7.13 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address cultural matters. We consider these provisions are efficient and effective and are most appropriate to achieve the objectives.

¹⁷³ Statement of Evidence of Amy Prestidge at [21], [36] and [53].

¹⁷⁴ At [11.227].

¹⁷⁵ And in his response to the Hearing Panel dated 15 December 2023.

¹⁷⁶ Summary Statement at [7].

¹⁷⁷ Summary Statement at [8].

7.14 The submissions on behalf of Kāi Tahu have largely been accepted (and as stated this occurred through the Hearing process) but we deviated on some matters to reflect greater detail provided through the Hearing process. Further comment on the Kāi Tahu submission in relation to stormwaters is set out in Section 11.

8. ECOLOGY

- 8.1 We generally support the TPLM Zone objectives and policies that promote the development and connectivity of open spaces, green networks, and stormwater infrastructure¹⁷⁸ that supports ecologically sustainable outcomes and provides a blue – green network throughout the zone, but we have made changes that clarify the outcomes intended within the Zone and these are explained at Section 13.
- 8.2 Ms Palmer presented ecological evidence on behalf of Council. She noted the seasonal presence in and around the area of three at-risk or threatened bird species, these being the southern pied oystercatcher (**SIPO**), the black-fronted tern and the black-billed gull.¹⁷⁹ The TPLM Site represents a foraging opportunity within a broader network of foraging habitat within the Whakatipu Basin for these birds, with the most notable being the SIPO.¹⁸⁰ Whilst the ecological value of the TPLM Site is rated as moderate,¹⁸¹ the loss of the TPLM Site as foraging opportunity is assessed by Ms Palmers as being low.¹⁸² The site is not identified as a successful nesting opportunity for any of these three species.¹⁸³
- 8.3 Ms Palmer also noted the presence of matagouri on site as an at-risk declining indigenous species, noting that it is a common species within Otago.¹⁸⁴ Only a small number of matagouri have been identified as being present on site. Impacts overall are assessed as being less than minor.¹⁸⁵
- 8.4 We note the submission from Kāi Tahu as presented by Mr Bathgate and the desire for an integrated stormwater solution that delivers blue-green corridors that promote biodiversity. It was clear from Mr Bathgate’s evidence, and that of Mr Hanff on behalf of Friends of Lake Hayes, amongst others, that the adverse effects of sediment carried to Waiwhakaata Lake Hayes on the ecological value of that water body is a key concern.¹⁸⁶ The details of how stormwater is to be managed is discussed in detail in Section 11.
- 8.5 The development of sports fields and other recreational infrastructure alongside the retention of natural spaces provides opportunities to establish and integrate ecological corridors preferentially comprising indigenous species across the TPLM Zone. Soil management within the Open Space Zone, and indigenous planting across the blue-green network could integrate with Waiwhakaata Lake Hayes surrounds and provide habitat for small native birds,¹⁸⁷ SIPO and other foraging avifauna.¹⁸⁸ Overall, the loss of

¹⁷⁸ Objectives 49.2.7 and 49.2.8, Policies 49.2.7.13 and 49.2.8.2.

¹⁷⁹ Statement of Evidence of Dawn Palmer at [43].

¹⁸⁰ At [84] and [85].

¹⁸¹ At [48] – [53].

¹⁸² At [57].

¹⁸³ At [48] – [51].

¹⁸⁴ At [43].

¹⁸⁵ At [57].

¹⁸⁶ At [79] and [80].

¹⁸⁷ Statement of Evidence of Dawn Palmer at [22].

¹⁸⁸ At [90] – [93].

habitat as a result of the TPLM Zone would be less than minor,¹⁸⁹ particularly when supported by the existing provisions in Chapter 33 of the PDP.¹⁹⁰ The amended Amenity Access Area (**AAA**) (now a Building Restriction Area (**BRA**) as set out in Section 13) we recommend is also not assessed as representing a significant loss of foraging habitat¹⁹¹ with the reduced speed limit on SH6 identified as part of the transportation evidence potentially reducing the likelihood of bird strike.¹⁹²

8.6 DOC lodged a submission¹⁹³ against TPLM unless off-site monitoring, compensation and effect management regimes be developed and confirmed. A number of further submitters opposed this.¹⁹⁴ The Council and ORC have joint responsibilities to deliver on the NPS-IB. The Council also has a Biodiversity and Climate Action Plan in place, both of which require work to support biodiversity and sit outside the scope of the TPLM Variation.¹⁹⁵ We did not receive any evidence from DOC but Ms Palmer's preferred approach was for a "coordinated, multi-agency investigation into the use and importance of the broader network of habitats and the incorporation of outcomes from that research into other future planning processes."¹⁹⁶ Mr Brown also supported¹⁹⁷ this approach (and that no offsetting and compensation was required)¹⁹⁸ and rejecting DOC's submission. We agree and hope that a collaborative approach occurs, with input and investment from DOC, but it is not for the TPLM Variation to deliver it and nor is it appropriate given the effects of the TPLM Variation. We also note that s.104(1)(ab) of the RMA, as part of the Council's consideration of any application for resource consent, still allows:

any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

8.7 Ecological matters in respect of the AHFT land are addressed in response to that submission in Section 14. In the same manner any matters relating primarily to stormwater that have an ecological connection (such as the provision of blue-green corridors) have been addressed in the Section 11.

Discussion

8.8 We accept Ms Palmer's evidence in relation to identifying the existing ecological nature and values of the TPLM Site, the likely effects of development on those values and appropriate mitigations and Zone requirements. We rely on Ms Palmer's assessment of whether the TPLM Site meets the test for identifying a Significant Natural Area in the context of the NPS-IB, and her conclusion that it does not.¹⁹⁹

¹⁸⁹ At [28].

¹⁹⁰ At [30].

¹⁹¹ Dawn Palmer's response to questions 6 December 2023.

¹⁹² Statement of Rebuttal Evidence of Dawn Palmer at [13].

¹⁹³ Submission 44.

¹⁹⁴ Sanderson Group (126), Milstead Trust (129), Winter Miles Airstream Ltd (134), GDL (137), Ladies Mile Property Syndicate (139), Maryhill Limited (141).

¹⁹⁵ Statement of Evidence of Ms Palmer at [155].

¹⁹⁶ Dawn Palmer's Summary Statement at [5].

¹⁹⁷ Provisionally waiting to hear from the parties – only Ms Palmer addressed this issue. We did not hear from DOC at the Hearing .

¹⁹⁸ Section 42A Report at [11.234] and [11.235].

¹⁹⁹ At [176] – [181].

- 8.9 We acknowledge the submissions by Kāi Tahu, Friends of Lake Hayes, DOC, and others and have taken them into account within our final recommendations. We have preferred the evidence of Ms Palmer in relation to these submissions,²⁰⁰ and invited direct responses from Kāi Tahu in relation to adopting an aspirational approach to biodiversity within the Zone provisions. For completeness we note that DOC did not provide expert evidence or attend the Hearing.
- 8.10 We support the amendments to the Zone Purpose 49.1, Objectives 49.2.7 and Policy 49.2.7.3 as per the Te Rūnanga o Ngāi Tahu Papatipu Rūnanga suggestions to better reflect the desire for pro-active ecological enhancement. Similarly, we support the proposed amendment to Objective 4.2.2.21 (f) and assessment matter 49.7.1(f) that prefers the use of indigenous vegetation.
- 8.11 We do not support the amendment to Low Density Residential Precinct Rule 49.5.12 Lighting and Glare and Glenpanel Precinct and Commercial Precinct Rule 49.5.47, adding consideration of ecological health to the matters of restricted discretion. We received no evidence on how this could be assessed or evaluated. It would result in the TPLM Variation having different requirements to the rest of the District. We also cannot understand the logic of it applying in some precincts and not others. We have deleted reference to it.
- 8.12 We support the amendment to the Assessment Matter 49.7.1 (f) and Subdivision and Development Rule 27.7.28.2 where consideration of the form and function of ecological corridors is required. We also support the DOC submission to amend Assessment Matters for Resource Consents Rule 27.9.8.1(c)(ii)(h) in relation to development layouts protecting, maintaining and enhancing indigenous biodiversity.
- 8.13 In our opinion, this fulfils the Minister's Expectation (iv) which states:
- That the TPLM Variation ensures future development will be undertaken in a manner that recognises and protects sensitive receiving environments including in particular Slope Hill, Waiwhakaata Lake Hayes and the Shotover River.
- 8.14 In relation to the recognition of ecological values GDL and others questioned the appropriateness of ecological provisions within such an intensive housing area. We have discussed the ability for open space, stormwater, and planting to provide for ecological benefit within the TPLM Site. We are satisfied that in achieving a high-quality medium-to-high density neighbourhood there will be a practical need for areas of amenity and open space, and that some of these will be able to perform a useful ecological function that is not in tension or at-odds-with the reasonable maximisation of housing outcomes or of promoting housing affordability. We consider that the inclusion of ecological matters is appropriate, and the provisions are efficient and effective and the most appropriate to achieve the objectives. The changes reflected above have been evaluated by Mr Brown in relation to s 32AA.²⁰¹ We agree with and adopt his evaluation.

²⁰⁰ Statement of Evidence of Dawn Palmer at [143] – [148], [160] – [163], [167] and Rebuttal Evidence of Dawn Palmer at [23] – [26].

²⁰¹ Section 42A Report, Rebuttal Evidence; and Reply s42A Report.

- 8.15 We have amended the rules which had a prioritisation for ecology for building height infringements to apply more generally to applications for rule infringements within the TPLM Zone (Rule 49.5.0.1). We consider that approach better reflects (and is most appropriate to achieve) Objectives 49.2.7 and Policies 49.2.7.3 and 49.2.7.13.
- 8.16 The outcome and provisions we recommend fulfils the Minister's Expectation (iv).

Findings and recommendation

- 8.17 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address ecological matters. We consider these provisions are efficient and effective and are most appropriate to achieve the objectives.
- 8.18 We therefore accept the submissions referred to in this section insofar as they align with the provisions as we recommend and reject them to the extent they differ.

9. LANDSCAPE / AMENITY / VISUAL

Background

- 9.1 The TPLM Site is within the Ladies Mile Landscape Character Unit (LCU -10) as described in Chapter 24 of the PDP. It sits between the Shotover River to the west, Waiwhakaata Lake Hayes to the east, the foot of Slope Hill to the north and the lower terraces of the Shotover and Kawarau Rivers to the south (and west) where the Lake Hayes Estates and Shotover Country residential neighbourhoods are well established. SH6 separates the area in half from east to west; the northern portion being mostly rural and the southern mostly urbanised area, which includes Queenstown Country Club and the Koko Ridge subdivision to the west.
- 9.2 Ladies Mile is shown as a Visual Amenity Landscape in the ODP. Slope Hill, which rises to the north of the TPLM Site, is recognised in the PDP as an ONF; its mapped extent and its s6(b) RMA status was confirmed by the Environment Court Decisions on QLDC PDP Topic 2 – Rural Landscapes.²⁰²
- 9.3 The s32 Evaluation Report attached the Landscape and Visual Assessment report²⁰³ which describes the landscape setting within the Wakatipu Basin. The report describes Ladies Mile as being in a state of change from predominantly open pastoral use. It recognises that the encroachment of urban development on to the Ladies Mile has eroded its rural elements.²⁰⁴ Section 5 of the report summarises the landscape character and visual effects of the TPLM variation enabled development.

Issues

- 9.4 The effects of the TPLM Variation enabled development on the landscape character and visual amenity of the TPLM Site and wider environment was raised in submissions. There lies a tension between needing to respond to urban growth pressures and enable urban development while protecting the District's landscape values, which we were told

²⁰² Statement of Evidence of Bridget Gilbert at [45].

²⁰³ Appendix d(iv) also referred to within the s32 Evaluation Report as 3A (xi).

²⁰⁴ Patch Landscape and Visual Assessment report; and s32 Evaluation Report Appendix d(iv) at [3.4].

can include both direct effects on a protected landscape, and indirect effects such as lost views of a landscape feature arising from development on land that is not of itself subject to landscape protection.

- 9.5 The PDP categorises approximately 97% of the area as Outstanding Natural Landscape (**ONL**) or Outstanding Natural Feature (**ONF**).²⁰⁵ This is a significant part of the District and it places obvious pressure on the remaining 3% of the District (not all of which will be suitable for urban development due to other considerations). What it makes clear is that where urban development can appropriately be undertaken it should be undertaken as intensively as is possible to reflect the scarce nature of the resource.
- 9.6 TPLM variation landscape issues primarily relate to the change to the rural character of the local and wider area to a medium-high density urban area, the effects on the “rural gateway to Queenstown”, and the effects of the variation on the Slope Hill ONF and wider landscape character including any loss of views (noting that the expert evidence we received focussed predominantly on lost views for persons travelling in vehicles along SH6).
- 9.7 Other variation landscape and visual amenity issues include the effects on vegetation, urban creep, urban design, building setbacks, and amenity access areas.

Submissions and evidence

Rural Character (including views from the road)

- 9.8 Multiple submissions²⁰⁶ opposing the change to the rural character of the TPLM Site and/or the change to the rural gateway to Queenstown from the development enabled by the TPLM Variation were received. Submitters spoke positively of the pastoral views, hedgerows, mature trees and views when travelling along SH6 and desire to retain the ‘rural gateway to Queenstown’. Miranda Spary²⁰⁷ opposed the TPLM Variation and submitted that development will turn an area of ‘outstanding natural beauty’ into urban development.
- 9.9 In his evidence Mr Skelton²⁰⁸ considered that the rural and rural living approach to Queenstown would be maintained within the Waiwhakaata Lake Hayes catchment and that the TPLM Variation will not result in significant adverse effects on the ruralness as experienced from land east of Ladies Mile. He notes that the land east of the TPLM Variation Area will remain open in character.
- 9.10 During the Hearings, we heard varying opinions as to what constituted a ‘gateway’, where the eastern gateway to Queenstown might be, and what landscape elements contributed to forming a visual gateway. Mr Skelton²⁰⁹ provided helpful background to

²⁰⁵ Statement of Evidence of Bridget Gilbert at [27].

²⁰⁶ Submissions R Pettit (5), T Sanders (6), K Smith (12), B Findlay (14), V Noskov (16), N Brown (17), S Beck (20), N Fairweather (21), A Meredith (22), N Lititsina (23), G McBride (31), L Martin (32), D Andrew (34), P Chudleigh (35), B Yuill (42), M Spary (43), K Netzler (50), M Pryde (60), S and B O’Donnell (67), J Alexander (70), T Stack-Forsyth (72), Blakely Wallace Family (74), LHESCA (79), Philippa Crick (97), L McQuillan (98), R MacLeod (109), G Griffin (114) and Martin Barrett (118).

²⁰⁷ Submission 4.

²⁰⁸ Statement of Evidence at [64].

²⁰⁹ Statement of Evidence at [66].

the 2005 Gateway to Queenstown study and considers that study is outdated and no longer relevant i.e.:

... the 2005 Gateway to Queenstown study refers to TPLM how it was in 2005, not how it is now. TPLM has not been protected and the gateway to Queenstown has already been changed by the existing development within the landscape, particularly the intensification of activities within the TPLM and SH6 corridor.

9.11 The WLBUS (addressed in Section 3 above) recognises the challenges to addressing growth and housing pressures while avoiding, remedying and mitigating effects within the Wakatipu Basin. Of landscape relevance, the WLBUS states:²¹⁰

... threats to the PDP's objectives to protect the amenity landscape character of the [Wakatipu Basin] study area are unlikely to diminish. The District will continue to face pressure to extend urban growth boundaries and/or to rezone rural land in order to provide additional dwellings capacity.

9.12 The WBLUS identified the 'Ladies Mile Highway' area as having High Landscape capability to absorb development.²¹¹ The need for the TPLM Variation is discussed in Section 3.

9.13 Ms Gilbert's assessment²¹² of the TPLM Site notes that it is not mapped or scheduled in either the ODP or PDP as being ONF or ONL (RMA s 6 (b)). But Ladies Mile does have amenity landscape values (RMA s7(c)) to be considered.

9.14 Several submissions²¹³ opposed high density housing and considered that it was misaligned with the existing development and would result in a loss of neighbourhood identity and amenity in Ladies Mile.

9.15 Mr Skelton²¹⁴ presented evidence from his assessment of the values of the local and wider landscape and the impact of the TPLM Zone on these values. Mr Skelton²¹⁵ considered that the development of the QCC, the Stalker Road roundabout, the anticipated Howard Drive roundabout, and the temporal effects of traffic congestion, the ruralness of TPLM and its function as a rural approach to Queenstown has been eroded. The TPLM Site now reads as a mix of pastoral, rural living, and urban character elements. Mr Skelton acknowledges that the TPLM Variation will continue to change the character of the Ladies Mile area, from rural to urban.

9.16 We also record our awareness that the question of a gateway into Queenstown arose as part of the previous Frankton Flats planning exercise in the mid-2000s. What resulted from that was a landscaped setback along the SH6 frontage with buildings set back behind that. We were able to directly visit and appraise that gateway outcome when we were considering the expanded gateway experience into Queenstown proposed for the TPLM Zone. We asked questions of the success of the Frankton Flats gateway and the issue of gateways in the context of the District Plan more generally through the Hearing .

²¹⁰ At [4.2(f)].

²¹¹ At Figure 1.

²¹² Statement of Evidence at [37].

²¹³ Submissions Vladimir Noskov (16), Geraldine McBride (31), Robert Burnell (47), Margo Pryde (60), and Griffin (114).

²¹⁴ Statement of Evidence at [54], [55] and [70].

²¹⁵ Statement of Evidence at [25].

Visibility and visual effects

- 9.17 Mr Skelton provided evidence²¹⁶ on the visibility of the TPLM Variation enabled development from various locations in the vicinity concluded that, because of the mature vegetation and urban design, the development would have limited visibility from areas outside the LCU including from Waiwhakaata Lake Hayes, Shotover Country, and Lake Hayes Estate. Parts of the development may be visible from the eastern edge of Frankton Flats, Quail Rise and the Remarkables Road.
- 9.18 As landscape joint witness conferencing resulted in little agreement amongst specialists we were relied on our reading of the evidence and questions, observations during site visits, photographs presented in evidence and modelled images to progress this topic.

Slope Hill ONF, UGB and development

- 9.19 GDL, Alexander Reid and Maryhill Limited²¹⁷ opposed the location of the Slope Hill ONL and UGB and sought that TPLM variation should enable development on the lower flanks of Slope Hill.
- 9.20 The effect of TPLM variation development on the Slope Hill ONL and other landscape values of the Mile was opposed in submissions from Samuel Beck, Amanda Styris, Blakely Wallace Family, Philippa Crick, Geraldine McBride, and Miranda Spary.
- 9.21 The TPLM variation area is located at the foot of slope hill (ONF), a recognised roche moutonnee landform feature to the north of the TPLM area. Ms Gilbert²¹⁸ provided evidence that the mapping of the TPLM variation avoids encroaching on the Slope Hill ONF and that urban development directly adjacent to an ONF is a reasonably common occurrence in more developed parts of the District.
- 9.22 The location of the ONF line and the UGB was a matter of some discussion during the Hearing. GDL withdrew its request to alter the ONF boundary during the Hearing.²¹⁹ We therefore do not need to address the issue in relation to that site, but Alexander Reid²²⁰ and Maryhill Limited²²¹ sought to amend the TPLM Variation extent to enable development on the lower flanks of Slope Hill. But this was not advanced further through the Hearing process.
- 9.23 We turned to Ms Gilbert and Mr Skelton's evidence to deepen our understanding of the Slope Hill ONF line. Ms Gilbert's evidence²²² provided a helpful commentary on the mapping background and drew attention to the Environment Court's decision *Hawthenden Ltd v Queenstown Lakes District Council*²²³ and the JWSs on that matter. She does not support either extending development into the Slope Hill ONF nor changing the Slope Hill ONF line location.²²⁴ Mr Skelton²²⁵ also considers that the Slope Hill ONF

²¹⁶ Statement of Evidence at [13].

²¹⁷ Submission 73, 102 and 105 respectively.

²¹⁸ Statement of Evidence at [25] – [27].

²¹⁹ See also the email from Mr Gardner-Hopkins on the Website dated 18 December 2023.

²²⁰ Submission 102.

²²¹ Submission 105.

²²² Statement of Evidence at [47] – [53].

²²³ *Hawthenden Ltd v Queenstown Lakes District Council* [2019] NZEnvC 160 at [80].

²²⁴ Statement of Evidence at [44] – [45].

²²⁵ Statement of Evidence at [27].

line is appropriately located on the PDP maps and notes that the ONF line is defined by different parameters along its length.

Urban Creep

- 9.24 Keryn Smith²²⁶ and Anthony Stack-Forsyth²²⁷ raised concerns in submissions that the TPLM Variation will result in urban creep from Frankton and that ribbon style development will destroy the rural area.
- 9.25 Mr Skelton has been clear that the TPLM Variation will result in a character shift from an open to urban character area. On the topic of urban creep,²²⁸ he considers that the urban character area will be well contained by natural features and will not spill beyond TPLM Variation boundaries. In his opinion the wider Whakatipu Basin values including the highly valued ONL's and ONF's and open character of the Whakatipu Basin will be maintained, albeit with a new urban area.

Setbacks, open spaces and trees

- 9.26 GDL and Queenstown Country Club Village Limited²²⁹ opposed specific landscape and visual amenity provisions including setback distances, open spaces, and retention of existing trees. Both submitters sought to reduce the setbacks to enable development. GDL sought to enable removal of several mature trees and increased flexibility for the location, size and purpose of open spaces.
- 9.27 Mr Lowe considered that the existing 75m building restriction area on the south side of SH6, has created a continuous well-defined built form edge along the flat land in alignment to a similar contour level/ viewpoint elevation as experienced from SH6. This setback has resulted in a legible open character which supports views to the south to the Remarkables and looking west towards the Peninsula Hill. It is a key contributor to the sense of openness experience when moving through Ladies Mile.²³⁰
- 9.28 There was considerable discussion with a range of experts, including landscape, traffic, ecology and urban design specialists, in relation to the SH6 corridor and how the TPLM may change its look and feel in response to a new urban area. The opinions did not always align; generally speaking, the traffic experts supported lesser building setbacks than the landscape and urban designers. The experts agree that the northern setback can reduce to 10m in places and that the maximum southern setback should be 25m.²³¹
- 9.29 Following the completion of the Hearing, and before closing, we asked Mr Skelton to review the latest AAA plans prepared by Studio Pacific Architecture. This arose in response to our questions at the Hearing seeking clarification on who was envisaged to own the future AAA and what spacing, height and species of planting was envisaged. Mr Skelton's reply²³² was that:

²²⁶ Submission 12.

²²⁷ Submission 72.

²²⁸ Statement of Evidence at [73].

²²⁹ Submission 106.

²³⁰ Statement of Evidence of Michael Lowe at [66].

²³¹ Urban Design and Traffic Joint Witness Statement, page 9.

²³² Response Statement of Russel Skelton at [9].

... the latest set of plans have reduced the scale of trees which will result in some positive effects in terms of reducing the screening effect of trees towards Slope Hill. There will be gaps in vegetation where the visual presence of Slope Hill will still be appreciable. It is my opinion that trees hold an amenity in their own right and currently the views across the TPLM Variation Area to Slope Hill from SH6 are largely not available as the northern edge of SH6 is predominantly lined in a dense hedge.

9.30 Mr Skelton also noted that:

The approval of the TPLM Variation will remove this hedge in favour of spaced trees and will make views from SH6 to Slope Hill more available, regardless of the proposed high stature vegetation.

9.31 In Mr Dun's²³³ reply to questions from the Hearing Panel on the landscape plan for the SH6, he considered that tree species proposed for the north side of SH6 are appropriate and will create a consistent and distinctive arrival experience. Mr Dun's opinion is that the scale and spacing of trees at 25m centres, provides for a consistent landscape treatment whilst maintaining views between them to the development behind, and clearly signalling an urban environment.

Landscape and Visual Effects on Existing Environment

9.32 Several submissions²³⁴ raised landscape and visual effects of the anticipated high-density development in the TPLM area. They submitted that high density does not align with existing low-density housing, will result in a loss of identity of the neighbourhood and the amenity of the area, and is not appropriate from a cultural landscape perspective.

9.33 These submissions speak to several topics other than just landscape and visual effects. Consequently, other sections of this report also address these submissions.

9.34 Mr Skelton's assessment of the landscape effects of high-density development recognises more intense development is needed for the future and to ensure efficient use of scarce land. This also reflects the TPLM Zone purpose in the purpose statement. He recognises that high density is not an existing value within the landscape and considers that "the significant change in character requires an intensification that renders that change high in value."²³⁵

9.35 Mr Skelton has a contrary view to submitters on the perceived loss of identity of the neighbourhood. Rather, Mr Skelton considers that the TPLM area will act to increase a sense of place and connection for people within a well-considered urban environment where wider landscape values are maintained.²³⁶

Discussion

9.36 It is important to note that the notified TMPL Variation provisions were iteratively and considerably amended through the Hearing in response to submissions, further submissions, rebuttal, evidence, joint witness conferencing, questions, and Hearing Panel questions. Further provision amendments have been made following our Hearing questions to Council and Mr Brown.

²³³ Response Statement of Stuart Dun.

²³⁴ Submission Vladimir Noskov (16), Geraldine McBride (31), Robert Burnell (47), Margo Pryde (60), and Gordon Griffin (114).

²³⁵ Statement of Evidence at [75].

²³⁶ Statement of Evidence at [75].

- 9.37 We agree with Mr Skelton that the TPLM Variation will change the Ladies Mile area to an urban environment; we have embraced this understanding from the outset to objectively consider the evidence before us. Through the Hearing the speed limit and environment along SH6 envisaged as most desirable, and achievable, changed (100km/hr to 60km/hr – see Section 12). To respond to this, and to ensure the efficient use of scarce land for housing, the provisions we adopted the approach not to attempt to hide from the landscape character change nor hide the development within Ladies Mile. Rather, the resource management focus should be on ensuring the delivery of a high quality (dense) urban environment while appropriately providing ongoing views and connections through that to the landscapes beyond.
- 9.38 Based on our review of the planning framework, evidence, site visits and submissions we consider that the question whether Ladies Mile is, or is part of, a 'Gateway to Queenstown', is not determinative, nor should it countermand the other critical resource management issues that led to formulation of the Variation. The 2005 study, which aimed to protect Ladies Mile from development, has been superseded by the WBLUS, master plan and the TPLM Variation which recognises that Ladies Mile has landscape capacity to absorb development. We place little weighting on its preferences.
- 9.39 We also observed that as part of our site visits; we carefully examined the landscaped setbacks along SH6 in front of the Frankton Flats zone further west of the proposed TPLM, which we are aware were also argued on the premise of providing a ruralness and gateway quality. What we saw conveyed neither a ruralness nor a gateway quality; extending this several kilometres eastwards along the TPLM section of SH6 in a manner that would undulate in both width and land use interface made little sense to us in resource management terms. When we turned to the District Plan, we found no convincing reference to the concept of gateways generally or one east of Queenstown specifically, leading us to question whether it was at all relevant beyond a 'nice to have'. In response to our questioning along this line, Mr Brown proposed to add a reference into Chapter 4 of the District Plan. We are not persuaded that this is appropriate; what we were focused on was whether in a s32 RMA sense the proposed TPLM SH6 gateway setbacks were implementing any existing relevant policy framework, and we are satisfied that they did not. Adding such a strategic policy provision as part of the TPLM Zone late in a public Hearing process to help justify the gateway method strikes us as a s32 analysis being used almost in reverse.
- 9.40 We agree with Mr Skelton that the ruralness of the Ladies Mile has been eroded by land fragmentation and development in and around Ladies Mile²³⁷ and that its character change (from rural to urban) is appropriate in the context of the existing zoning, anticipated change and development pressure. We received little assessment of why the TPLM Variation's urban outcomes would be so necessarily adverse or inferior to existing rural ones (although we received many repeated assertions that this was the case). During our Hearing process we frequently left urban Queenstown and then returned to it. On our journeys we were often in the position of being able to see a very rural landscape,

²³⁷ Statement of Evidence at [65].

and then (such as rounding a corner) presented with a very urban vista full of activities and buildings. Although Queenstown's outstanding landscapes are rightly treasured, we could not see any basis to take the view that the urban parts of Queenstown were uniformly adverse or less characterful than general rural ones. This led us to the view that it would not be reasonable or correct to conclude that the prospect of change in character at the TPLM Site, or the prospect of being able to see a new urban neighbourhood within it, would result in an unacceptable effect.

- 9.41 We found the 'gateway experience' argument particularly difficult to follow, noting that the highway extends several kilometres east of the TPLM Zone, and people travelling along the TPLM Zone section of SH6 would still appreciate whatever rural journey qualities the Council sees as important along that before arriving at the Ladies Mile section. Put simply, it is not possible for users of SH6 to arrive at Queenstown without having travelled through a significant and visually stunning rural environment. On arrival at the TPLM Site, we see no resource management justification (or tangible adverse effects) to not allow people to experience arrival into a dense urban neighbourhood.
- 9.42 The TPLM Zone has been proposed by the Council on the premise that it will be one of the highest-density and most intensive urban neighbourhoods in the District, and it has offered numerous justifications for why this is a very important resource management outcome for the District. We are satisfied that the provisions proposed to manage subdivision and development will mitigate potential adverse visual and built form effects acceptably in the context of what will be a plainly obvious high-intensity urban area. We are unconvinced that in such a planned land use context it is realistically possible or necessary to try to use landscape methods to visually hide or disguise urban development; if the Council considered that only a low-density, semi-rural and highly landscape-dominant outcome was all that could be tolerated in this environment, then a zone framework much similar to what can be seen south of SH6 should have been advanced.
- 9.43 We agree that the TPLM area is well-suited to, and should establish, a medium-high density urban area. We generally agree with the experts,²³⁸ but as discussed further in Sections 12 and 13 we agree that the SH6 BRA of 10m on the northern side of SH6 and 25m on the southern side are appropriate and that setbacks greater than this would serve no valid resource management purpose (and in fact work against the resource management issues in favour of maximising development enablement on what in the context of the District seems to be a very scarce resource of land suitable for higher-density urban development). The BRAs we recommend will provide safety and amenity for pedestrians, cyclists and activities adjoining SH6 and provide for active transport links along the length of the TPLM Zone. We are not convinced by the Council's SH6 landscape plans (cross sections and indicative tree planting plans) or reasons for those plans that the experts provided for them, nor have we been convinced that the BRAs must be in public ownership (the Council was not able to confirm what status of reserve land if any that the land might have if acquired).

²³⁸ Urban Design and Traffic Joint Witness Statement, page 9.

- 9.44 More fundamentally, we do not consider it appropriate to attempt to retain a rural parklike highway corridor through the TPLM Site. The question of tree planting along SH6 is a double-edged sword, where large trees could block views of the background landscape features that the Council was trying to protect through providing the setbacks to begin with. Significantly more analysis of this issue was required. We consider that landscaping and planting within the BRAs are best considered through the resource consent application process rather than in the TPLM Zone provisions. We consequently recommend the removal of the Council's plans from the TPLM Zone provisions.
- 9.45 We agree that the main adverse effect on landscape character is associated visual access across a currently vacant landscape to the foot of Slope Hill. We agree (and saw) that there are currently limited views of Slope Hill from SH6 as the highway is lined with vegetation and/or mounding. The amended Structure Plan will provide enhanced views of Slope Hill from Hawthorn Drive across the Glenpanel precinct and up Slope Hill, effectively anchoring Slope Hill as a key landscape feature in the Zone.
- 9.46 Slope Hill is an important ONF for the TPLM Site and its values should be, and will be, protected. We agree with Ms Gilbert that, given the high proportion of the District being ONF or ONL, urban development will inevitably be juxtaposed against outstanding natural features and landscapes. This is of itself not an inherent adverse effect. We are cognisant of that Slope Hill's ONF delineation and s6(b) status was confirmed by the Environment Court decisions on QLDC PDP Topic 2 and consider that this matter has been well traversed through the courts.²³⁹ We consider that allowing development in the ONF would be contrary to the PDP landscape policies and would fail to protect the landscape values of Slope Hill.
- 9.47 The changes we have made to reflect the above matters have been focused on making the methods efficient and effective and the most appropriate way to achieve the objectives. They reflect the evidence we heard and our site visits and, especially in relation the AAA (which we now simply refer to as the BRA) the transport evidence as to the location of development to reflect a 60km/hr speed zone. We also consider that the reduced BRA reflects the efficient use of a limited and important resource while retaining appropriate landscape and amenity views through the TPLM Site.

Key Findings and Recommendations

- 9.48 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address landscape and visual amenity issues. While the TPLM will result in a significant change to the existing environment we consider that the TPLM Site can appropriately accommodate the dense urban environment proposed. We consider these provisions are efficient and effective and are most appropriate to achieve the objectives.

²³⁹ See *Upper Clutha Environmental Society Inc v Queenstown Lakes District Council* [2020] NZEnvC 158 at [83(b)] which confirmed the Council's proposed Priority Area for the Slope Hill ONF as appropriate. In *Hawthenden Ltd v Queenstown Lakes District Council* [2019] NZEnvC 160 the Court considered the proper application of s 6(b).

9.49 We therefore accept the submissions referred to in this section, and in Section 14 where there is overlap, insofar as they align with the provisions as we recommend and reject them to the extent they differ.

10. PARKS AND OPEN SPACE

10.1 Several submissions²⁴⁰ raised issues with the parks and open space provisions, including the size and locations of the proposed parks and alternative recreational outcomes. The key issues related to the use of valuable (flat) housing land and especially how open spaces could be used for/combined with, stormwater infrastructure.

10.2 We received evidence from Ms Galavazi, Senior Parks and Reserves Planner at the Council. She started her evidence explaining that despite being the largest population centre in the Wakatipu the existing Lakes Hayes Estate and Shotover Country communities have low open space and community infrastructure provision.²⁴¹

10.3 Ms Galavazi's evidence addressed the role and size/provisions for community and local parks,²⁴² especially in relation to higher density housing development (where we were told it plays a greater role than lower density development), and the need for flat land.²⁴³ She strongly supported the community park and the two local parks in terms of their size and function and being placed on the Structure Plan.²⁴⁴ In terms of location, Ms Galavazi considered that the parks as required by the Structure Plan to be centrally located and easily accessible within the neighbourhoods and be connected by high quality walking and cycle ways, is consistent with the QLDC Parks and Open Spaces Strategy 2021 guidance.²⁴⁵ She opposed using recreational areas to also accommodate stormwater infrastructure (each needed its own specific space).²⁴⁶ She also considered that open spaces (and stormwater areas) play an important ecological role in higher density environments.²⁴⁷

10.4 Her evidence also appended the Council's Park's and Open Space Strategy (2021) that explains, consistent with Ms Galavazi's evidence why a proactive approach to open space is required and how the strategy responds to growth in the District. Helpfully it also sets out the objectives for, and types of open spaces, with guidance as to the outcomes and requirements for the different types of open space. We found this useful in considering the issues raised by submitters and understanding further the rationale for Ms Galavazi's approach.

10.5 In relation to the issue of pocket parks raised in the Sanderson Group and Queenstown Commercial Ltd (**Sanderson**) submission Ms Galavazi considered that while they provide amenity, they are not large enough to provide for most recreational activities.²⁴⁸

²⁴⁰ GDL (73), Sanderson (93), Maryhill (105), TRONT (100) and Mr Finlin (101).

²⁴¹ Statement of Evidence at [9], [10] and [12].

²⁴² In addition, the TPLM Variation includes 516 Frankton- Ladies Mile, owned by the Council, is proposed to be a community and sports hub, zoned open space (Precinct J).

²⁴³ Statement of Evidence at [30], [49] and [50].

²⁴⁴ At [47].

²⁴⁵ At [23].

²⁴⁶ At [40] and [55].

²⁴⁷ At 43].

²⁴⁸ At [52].

Ms Galavazi retained this position in response to the evidence of Ms Stagg and Mr Stalker.²⁴⁹

- 10.6 Finally, in relation to issues of compensation Ms Galavazi explained the Council's development contribution (DC) policy.²⁵⁰ The Council's open space policies and DC policy is set under the Local Government Act 2002 (**LGA**) and we do not have the ability to influence it.

Discussion

- 10.7 We generally support the TPLM Zone objectives and policies that promote the development of open spaces, green networks, walkways and cycleways that may in some instances be integrated with stormwater infrastructure. We support the intention for there to be a range of public open spaces including the community recreation reserve providing amenity for the current and future local community. The Open Space Precinct will provide an important community focal point for recreational activities. Given the proposed density for the TPLM Zone, we agree with Ms Galavazi as to the number (one community and two local) reserves, their size and function, their location and that their general location be shown in the Structure Plan.
- 10.8 Importantly, the TPLM Zone does not include specific public open space 'spot zones', nor does it have the effect of acquiring any privately owned land for public open space purposes. A future subdivision process guided by the TPLM Structure Plan would result in those outcomes. Similarly, the Open Space Precinct (owned by the Council) within the TPLM Zone sets out only a planning framework for that land. Any formal gazetting of the land with a Reserves Act classification, and what may be accommodated on that land are all for future resource consent and LGA processes to determine.
- 10.9 The evidence presented to us indicated the requirements for open spaces to serve various purposes and this was on the premise of the Council as an LGA Asset Manager. Ms Galavazi's evidence demonstrated that there is a high level of need for community facilities, social infrastructure and open space in the area compared to other areas in the District particularly for large spaces, and compelled us to consider whether dual purpose open spaces, parks and reserves provided suitable recreation and amenity areas needed for the Ladies Mile and Shotover Country / Lake Hayes Estate communities. But it is important to distinguish, and we have done in our evaluation, between the historic lack of appropriate open space provision for the existing neighbourhoods south of SH6 (which can be met by the new Open Space Precinct), and the open spaces needed to meet the needs of and otherwise mitigate the adverse effects of, new development on the north side of SH6. We have a clear understanding that LGA Development Contributions levied on new development may only be taken to fund that portion of capital costs for relevant facilities as is being generated by that new development; it is not permissible to require new development to fund that portion of demand for new facilities created by others

²⁴⁹ Rebuttal Evidence at [17]. She also considered that there was little evidence in the District to support the CPTED issues they raised.

²⁵⁰ Statement of Evidence at [56]; and Rebuttal evidence at [19] to [25].

including existing neighbourhoods. This is one reason why we have only supported new local parks on the land north of SH6 on the TPLM Structure Plan.

- 10.10 We agree with Ms Galavazi that dual purpose parks and reserves can limit the development and use of those spaces for certain community activities and recognise that the Community Park and the two local parks will be important spaces given the density of development within the TPLM Site.
- 10.11 While we agree with Ms Galavazi that the roles are different, and that open spaces must be able to perform any necessary recreation functions, it was evident to us that such spaces could, as and when appropriate, provide for stormwater allowance in extreme events (that is not part of the standard system but to provide a buffer at times of extreme events). In such events it is most unlikely that residents would enjoy playing in the reserve areas (or being outdoors at all). There is also overlap with the establishment of stormwater corridors also allowing for walkways and cycleways to be incorporated into their design, such that outside the design flood levels they can provide for recreation. While we express no view on dual purpose reserves in relation to the community and two local parks, if well-designed, open space and stormwater infrastructure may deliver their distinct primary roles while providing benefits to the other and ensuring efficient use of land. We find that the subdivision and consent process is the appropriate time to address any such issues.
- 10.12 The same applies to the overlap of open spaces and:
- (a) Ecology. The development of open spaces, and recreational infrastructure, provides an opportunity for ecological plantings and corridors as well as areas where birds (and other biodiversity) may rest and forage (such as on the large Council owned open space precinct (J1)).
 - (b) Landscapes. The location of the community park in the Structure Plan will allow open views along the new extension to Howards Drive to Slope Hill.
- 10.13 Overall:
- (a) We support the inclusion of Policy 27.3.24.3 requiring a range of open spaces and facilities, including sports grounds, local and community parks. The network of corridors that promote transport mode shift, and ecological corridors that co-exist with the establishment of stormwater infrastructure.
 - (b) A minimum of two local parks and a community park of between 1.5 and 2ha be included as generally identified in the TPLM Structure Plan.
 - (c) That while we express no view on dual purpose, parks must be sized and designed to achieve their primary recreational / social purpose. There may be the ability to obtain other benefits too, and to efficiently utilise land, which is best considered at the time of subdivision.

Findings and Recommendation

- 10.14 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address open space. We consider these provisions are efficient and effective and are most appropriate to achieve the objectives.
- 10.15 We therefore accept the submissions referred to in this section insofar as they align with the provisions as we recommend and reject them to the extent they differ.

11. STORMWATER AND WAIWHAKAATA LAKE HAYES

Background

- 11.1 Stormwater management in the TPLM Zone, and the potential adverse effects on Waiwhakaata Lake Hayes and other freshwater, concerned a number of submitters,²⁵¹ including iwi and Friends of Lake Hayes. In particular we heard from Messrs Davis and Bathgate on behalf of Kāi Tahu and Mr Hanff on behalf of FOLH. The Minister's expectations include that the TPLM Variation ensures that appropriate and feasible infrastructure, including stormwater management that allows for future climate change, is provided for.
- 11.2 The TPLM Site has poorly defined drainage channels and low intensity rainfall soaks to ground. The TPLM Zone also receives rainfall runoff from Slope Hill to the north. Rainfall runoff increases when the ground is saturated or frozen.
- 11.3 SH6 forms a surface water boundary through the TPLM Zone. Land on the northern side the state highway drains towards Waiwhakaata Lake Hayes. Stormwater generated on the southern side of SH6 can be treated and discharged through the existing Council stormwater network.
- 11.4 Water sensitive urban design principles were applied in formulating the TPLM stormwater approach. Stormwater objectives were to work with the natural water cycle, support connectivity, sustainably safeguard the community and infrastructure and to give effect to Te Mana o te Wai. The preferred TPLM stormwater management approach has 'flip-flopped' between an integrated principles-based stormwater system and a developer led approach. The notified stormwater provisions adopted a developer-led stormwater approach. Mr Gardiner's evidence provides the stormwater management considerations and reasons for the alternate, and we do not elaborate further here.²⁵²

Stormwater Issues

- 11.5 Three key stormwater issues were raised in submissions. These include adverse effects of stormwater discharges to freshwater, flood risk, and land developer equity and fairness.

²⁵¹ Threepwood Farm Residents Association & The Threepwood Custodians (33), Friends of Lake Hayes Inc (39), A Styris (40), M Spary (43), Department of Conservation (44), L & D Anderson (48), K Netzier (50), R Kuhm (64), S & B O'Donnell (67), Otago Regional Council (83), L McQuillan (98), Aukaha and Te Ao Marama Inc on behalf of the Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu (100), T Sydney (110), J Reese and R Lee (112), G Griffin (114), K & J Crane (115), L & P Keogh (120). Further submitters included Sanderson (126), Winter Miles Airstream Ltd (134), GDL (137) and Ladies Mile Syndicate (139).

²⁵² Statement of Evidence.

- 11.6 We received submissions from Aukaha and Te Ao Marama Inc on behalf of the Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu opposing the notified stormwater management approach.²⁵³ Their relief sought changes to the provisions, from the zone purpose statement through to the rules, that reflect an integrated, centralised zone-wide approach to stormwater management and avoidance of stormwater discharges directly to Waiwhakaata Lake Hayes.
- 11.7 Other submitters concerned about the potential adverse effects of stormwater discharges to Waiwhakaata Lake Hayes included FOLH,²⁵⁴ ORC,²⁵⁵ Threepwood Farm Residents Association and the Threepwood Custodians Limited²⁵⁶ and local residents.²⁵⁷ These submissions cited similar concerns to Kāi Tahu about the potential for increased sediment to Waiwhakaata Lake Hayes and ongoing degradation of water quality.
- 11.8 The ORC submission helpfully provided relevant regional and District freshwater planning context and drew our attention to the PDP Policy 24.2.4.2 that is “[r]estrict the scale, intensity and location of subdivision, development and use of land in the Lake Hayes catchment, unless it can occur consistently with improvement to water quality within the catchment.”²⁵⁸ This policy was also referred to by iwi and the FOLH. The ORC submission also explained the sensitivity of Waiwhakaata Lake Hayes to sediment and nutrient inputs.²⁵⁹
- 11.9 The FOLH submission opposed the notified stormwater approach.²⁶⁰ They considered that a decentralised and uncoordinated stormwater approach increased the risk of failure and adverse effects on Waiwhakaata Lake Hayes. The FOLH submission, and Mr Hanff, drew attention to the PDP Policy 24.2.4.2 and sought relief that ensures TPLM stormwater management contributes to water quality improvements in Waiwhakaata Lake Hayes. Mr Hanff explained the considerable community efforts (as also explained by Mr Davis) into restoring Waiwhakaata Lake Hayes.
- 11.10 Slope Hill runoff and the increased flood risk to properties downgradient of the TPLM Zone was a concern raised in submissions by local residents.²⁶¹ The reasons for considering that flood risk would increase included underestimated rainfall runoff from Slope Hill, particularly when the ground is frozen or saturated, over estimation of ground soakage, and increased run off from greater impervious surfaces during and after development. Kirsty and Justin Crane included photographs to illustrate the extent of past flooding in the TPLM Zone and in the downgradient Threepwood Farm in their submission.²⁶²

²⁵³ Submission 100.

²⁵⁴ Submission 39.

²⁵⁵ Submission 83.

²⁵⁶ Submission 33.

²⁵⁷ Miranda Spary, Lloyd and Debbie Anderson, Travis Sydney, Amanda Styris, Janie Reese and Rob Lee, Louise Keoghan, Sarah and Blair O'Donnell, Romain Kuhm, and Kirsty and Justin Crane.

²⁵⁸ Submission 83 at [1.8].

²⁵⁹ Submission 83 at [1.7]-[1.8].

²⁶⁰ Submission 33.

²⁶¹ Louise Keoghan, Park Ridge Limited, Threepwood Farm Residents Association and the Threepwood Custodians Limited, Friends of Lake Hayes Inc., Miranda Spary, Llyod and Debbie Anderson, Travis Sydney, Gordon Griffin, Kirsty McTaggart and Justine Crane.

²⁶² Submission 115.

- 11.11 Several landowners/developers submitted that the stormwater provisions, including the specificity of the structure plan, were too prescriptive and lacking flexibility to deviate for legitimate reasons.²⁶³ The change in stormwater approach through the Hearing process (from developer-led decentralised to an integrated approach) raised equity and fairness concerns with respect to costs related to being 'first off the block', issues as to developers being reliant on adjacent stormwater devices being in place, the location and number of stormwater devices, the use of parks and reserves for stormwater (i.e. dual purpose), and the loss of developable land (to stormwater devices).
- 11.12 During conferencing²⁶⁴ there was agreement (and some discussion ongoing as to the number of devices needed) in relation to stormwater management by the experts, in particular that appropriate management of stormwater can occur at the Site via soakage to ground. The experts also agreed that within the TPLM Site all the 1% Annual Exceedance Probability (**AEP**) rainfall event be directed to ground, but that was not possible for all runoff from Slope Hill and overland flow (towards Waiwhakaata Lake Hayes) would occur in lesser rainfall events. Quite rightly there was discussion too on how to manage the system with multiple landowners and co-ordinate secondary flow paths. The experts agreed to apply an integrated system and suggest provision drafting to accommodate it. The experts also agreed that the proposed development of erosion and sediment controls (**ESC**) provisions can be appropriately applied through consenting processes. In relation to Waiwhakaata Lake Hayes the experts agreed that the proposed system was "highly unlikely to worsen the water quality of Lake Hayes."²⁶⁵
- 11.13 Both Mr Gardiner's and Ms Prestidge's evidence was that stormwater could be appropriately managed from the TPLM Site to ground for the 1% AEP event. They explained how the 'crust' of less porous material by Slope Hill could be punched (or dug) through allowing more rapid discharge to ground. However, stormwater from Slope Hill should be separated from the rest of the TPLM Site. In relation to Slope Hill a first flush treatment system was intended to target key pollutants (including fine sediments). Mr Gardiner described a swale system generally along the line of the Collector Road that could intercept the Slope Hill runoff.
- 11.14 In relation to flow to Waiwhakaata Lake Hayes, Ms Prestidge concluded that "[t]herefore, overall implementation of an integrated stormwater system should result in improved quality of the water entering Lake Hayes from the TPLM Variation Area."²⁶⁶

Discussion

- 11.15 The TPLM stormwater management approach evolved through the master planning and the TPLM Variation process. While a centralised system was proposed in the TPLM Masterplan the stormwater management approach in the notified TPLM Variation was a developer-led decentralised approach that required alignment with guiding principles at the resource consent stage; the guiding principles were not included in the notified

²⁶³ GDL, Sanderson, Maryhill Limited and David Finlin.

²⁶⁴ Dated 1 November 2023.

²⁶⁵ Stormwater and Infrastructure Joint Witness Statement at issue 4 of Attachment A.

²⁶⁶ Statement of Evidence at [46].

provisions.²⁶⁷ This changed again through the Hearing process to an 'integrated' stormwater system with the focus becoming how to ensure such a system was delivered (including in relation to the use of guidelines).

- 11.16 Mr Gardiner's evidence was that an integrated stormwater approach with fewer stormwater devices,²⁶⁸ will enable the stormwater objectives to be achieved in accordance with the guiding principles.²⁶⁹ We acknowledge that the stormwater guiding principles include giving effect to Te Mana o te Wai and Kāi Tahu's desire to see water quality improvement and restoration of the mauri of Waiwhakaata Lake Hayes.²⁷⁰ After Hearing from Messrs Davis (representing Kāi Tahu) and Hanff (representing FOLH), that an integrated stormwater approach would better achieve the protection of Waiwhakaata Lake Hayes we agree that an integrated approach will better achieve the stormwater outcomes and appropriately avoid effects on freshwater. Mr Brown's Reply s42A Report clarifies the provision amendments to include a section on 'integration' that consolidates the different stormwater elements to ensure integration and coordination.²⁷¹
- 11.17 A key TPLM stormwater principle is to avoid stormwater discharges to sensitive receiving environments including Waiwhakaata Lake Hayes (except for overland flow in extreme events) and the Shotover River. We agree with this principle having read submissions and heard evidence from technical experts and lay submitters alike. Waiwhakaata Lake Hayes has high cultural, amenity and biodiversity values that have become degraded by nutrients and sediment over the last 70 years. We heard that multiple agencies and individuals are committed to restoring the lake through a range of interventions.
- 11.18 Mr Davis, representing Kāi Tahu, described his experience and memories of Waiwhakaata Lakes Hayes', the reasons for its deterioration (in particular the land use changes in its main catchment to the north) and the importance of restoring the mauri of freshwater through a ki uta ki tai approach. He explained the freshwater values from a cultural perspective and the importance for iwi to demonstrate kaitiaki and to avoid effects on the mauri of the wai. We understand from the Kāi Tahu submission and evidence presented to us at the Hearing that Kāi Tahu prefer that stormwater is managed in a manner that aligns with the natural water cycle and avoids adverse effects on freshwater.
- 11.19 Mr Hanff also explained the activities that have contributed to the degradation of lake water quality and to the methods employed in the catchment to reduce sediment inputs.²⁷² He expressed deep concern about the risks and potential effects of stormwater generated during land development and from stormwater systems discharging to Waiwhakaata Lake Hayes. Mr Hanff described the work being done to improve water quality in Waiwhakaata Lake Hayes and his strong preference to avoid any discharge to the Lake. The Hearing Panel undertook a catchment wide site visit on 14 December 2023, which combined with our other site visits, provided background on the catchment

²⁶⁷ Section 42A Report at [11.217].

²⁶⁸ Rather than a proliferation of devices on each land parcel.

²⁶⁹ Statement of Evidence at [14].

²⁷⁰ Submission 100.

²⁷¹ Reply s42A Report at [4.3].

²⁷² Report entitled Lake Hayes State of Environment 2023 by Mike Hanff for the Friends of Lake Hayes.

to the north of the Lake (the area to the west around the TPLM Site makes up a small part of the catchment), the multiple sources of freshwater contaminants from agriculture, forestry, and urban development in Waiwhakaata Lake Hayes and Mill Creek catchment areas. We recognise the challenges to reducing sediment inputs to the Lake and acknowledge the significant effort being made, especially by iwi and the FOLH to save the lake and restore its mauri.

- 11.20 Mr Gardiner's evidence demonstrated that rainfall on the TPLM Site predominantly soaks to ground.²⁷³ Excess rainfall from large rainfall events flow overland via sheet flow to surface water bodies including to Waiwhakaata Lake Hayes (as shown in the photos provided by Kirsty and Justin Crane and FOLH). In his evidence, and at the Hearing, Mr Gardiner explained the variability of ground conditions across the TPLM Zone and we agree that the conditions are suitable for stormwater to be discharged to ground.
- 11.21 Mr Gardiner considers that a stormwater system could be designed for the 1% AEP (a rainfall event with a 1 in 100-year chance of occurring in a single year) to be soaked to ground.²⁷⁴ Soakage would recharge the underlying Windemere aquifer.²⁷⁵ The stormwater experts agreed that managing stormwater for this event size, and soaking Slope Hill runoff to ground for at least the 5% AEP, and as close to the 1% AEP as possible, is achievable and will avoid overland flow to the Lake during such events.²⁷⁶ However, when we evaluated the provisions we were concerned that including reference to 5% would then make it the goal. We have therefore not referred to a 5% AEP as part of what may be acceptable. The experts also agree that secondary flow paths are required and that overland flow from the developed TPLM Zone will occur infrequently (events exceeding the 1% AEP or for runoff from Slope Hill as close as possible to it).²⁷⁷
- 11.22 We understand that the future TPLM stormwater system will reduce the present levels of overland flow to Waiwhakaata Lake Hayes through the management of TPLM stormwater and Slope Hill runoff. We are satisfied that several stormwater management options have been evaluated and that the integrated stormwater approach and stormwater principles now proposed will largely avoid stormwater discharges to Waiwhakaata Lake Hayes. We recognise that stormwater from the TPLM Site and Slope Hill that exceeds the 1% AEP (more regularly for Slope Hill) will flow overland via secondary flow paths to Waiwhakaata Lake Hayes.²⁷⁸ However, the stormwater approach does not preclude Council, Kāi Tahu, landowners and others working together to design a stormwater system that avoids discharges to Waiwhakaata Lake Hayes for events greater than the 1% AEP.
- 11.23 When we asked whether the proposed approach to avoiding stormwater discharges to the Lake was acceptable, Mr Davis said he supported the implementation of an integrated stormwater approach that soaks up to and including the 1% AEP at the TPLM Site to ground. When similarly asked, Mr Hanff stated that there should be no overland

²⁷³ Statement of Evidence.

²⁷⁴ Statement of Evidence at [39]-[40].

²⁷⁵ At [93].

²⁷⁶ Infrastructure Joint Witness Statement, Attachment A 1(a).

²⁷⁷ Infrastructure Joint Witness Statement, Attachment A 1(b).

²⁷⁸ Statement of Evidence of John Gardiner at [53]-[110].

flow to the Lake. Mr Hanff was then asked what event size he considered the stormwater system should be designed for. He reiterated that there should be no circumstance that allowed water from the TPLM Zone to drain to Waiwhakaata Lake Hayes and then stated his preference for piping water out of the catchment (to the Kawarau River to the south) altogether.²⁷⁹

- 11.24 We considered the evidence of expert and lay witnesses and agree with Mr Gardiner and Ms Prestige (and the other stormwater experts) that an integrated stormwater system designed to avoid overland stormwater discharges for events up to the 1% AEP from the TPLM Site is reasonable and aligned with the Kāi Tahu preference to reflect the natural water cycle. We are satisfied that the TPLM stormwater management approach will avoid stormwater discharges from the TPLM Site to Waiwhakaata Lake Hayes, but recognise that in extreme rainfall events greater than the 1% AEP, water will flow overland toward Waiwhakaata Lake Hayes. We note that the management approach does not preclude a stormwater system designed to avoid discharges to Waiwhakaata Lake Hayes for events greater than the 1% AEP.
- 11.25 It was submitted that Slope Hill rainfall runoff can be considerable, and may have been underestimated by stormwater experts such that there is a risk of runoff overwhelming the TPLM stormwater system.²⁸⁰ The submitters' concern is that Slope Hill runoff and TPLM stormwater would then flow overland to Waiwhakaata Lake Hayes and/or increase flood risk.
- 11.26 Our site visit to Slope Hill and around its base provided an opportunity to view the roche moutonnee topography, land use and drainage patterns.²⁸¹ We recognise that Slope Hill runoff to TPLM must be carefully considered to manage adverse effects on the TPLM Zone, downstream properties and Waiwhakaata Lake Hayes. Mr Gardiner's evidence in chief demonstrates that Slope Hill runoff has been well considered and quantified.²⁸² Expert conferencing between stormwater experts Messrs Gardiner, Ladbrook and Regan, and Ms Prestidge concluded that the Slope Hill runoff is to be considered independently from stormwater generated in the development area, with infiltration swales or basins used to provide soakage to ground and an overland flow path.²⁸³ As mentioned above, these were explained to us during the Hearing .
- 11.27 We agree with Mr Gardiner that it would be unreasonable to expect the TPLM stormwater system to treat (wholly – a swale system will provide treatment for most rainfall events) Slope Hill runoff for water quality. We also agree that Slope Hill runoff would be best addressed through a swale and infiltration system on the northern side of Collector Road A, close to the toe of the hill, to intercept runoff and soak it to ground.²⁸⁴ The infrastructure joint witness statement acknowledges that under some circumstance the 1% AEP may not be able to be soaked to ground; the experts recommend a requirement to soak as close to the 1% AEP as possible, which we agree with. We also

²⁷⁹ As also stated in submission 39.

²⁸⁰ Submitters A Styris (40), R Kuhm (64), S and B O'Donnell (67), Sanderson (93), J Hamilton (119), and L Keoghan (120).

²⁸¹ On 6 December 2023.

²⁸² At [20] and [36]-[39].

²⁸³ Infrastructure Joint Witness Statement, Attachment A 1.

²⁸⁴ Infrastructure Joint Witness Statement, Attachment A 1(a); and Response Statement of John Gardiner at [3]-[6].

agree with Mr Gardiner²⁸⁵ and Mr Brown's Reply s42A Report recommendation²⁸⁶ to show the Slope Hill swale on the Structure Plan and to provide some flexibility around the location of the swale in the eastern part of the TPLM Variation area due to the topography.

- 11.28 The infrastructure joint witness statement and Mr Gardiner's and Ms Prestidge's evidence has reassured us that that an integrated stormwater management system designed and operated in accordance with the Guiding Principles for Stormwater Management for TPLM will not exacerbate flooding at the TPLM Site for events up to the 1% AEP. Ms Prestidge's response to our stormwater questions before the Hearing²⁸⁷ reassured us requiring conservative climate change adjusted rainfall to be used²⁸⁸ will further increase stormwater system capacity and resilience to climate change effects.
- 11.29 We are cognisant of the need for the stormwater approach to avoid exacerbating flooding issues downstream of the TPLM Zone. Messrs Gardiner and Ladbrook gave evidence regarding the variability of TPLM Zone ground conditions and the existence of a 'crust' towards Slope Hill that can inhibit rainfall soakage. Messrs Gardiner and Ladbrook's evidence, and supporting s42A technical reports, have satisfied us that the crust may be punctured to access higher permeability materials and enhance soakage. It may benefit landowners and developer to collaborate to achieve the stormwater design requirement.
- 11.30 We are satisfied that the technical reports, evidence, and infrastructure expert statements demonstrates that an integrated stormwater system can be designed for up to the 1% AEP within the TPLM Zone.²⁸⁹ The interception of Slope Hill runoff, and the promotion of discharging it to ground for a close to the 1% AEP as possible (and no less than the 5% AEP), will reduce overland flow to downstream properties from that which occurs presently. We consider that this is a positive for downstream properties and Waiwhakaata Lake Hayes. We acknowledge that infrequent storms greater than the 1% AEP (in 2100 with RCP8.5) stormwater within the TPLM Zone will flow overland through secondary flow paths but consider that this is an appropriately conservative approach to stormwater (which is a step change to the provisions required to date in the District) and avoids increasing flood risk to downstream properties.
- 11.31 Several submissions raised concerns about the potential risk of excess flows or failure of the Arrow Irrigation Race, which runs around Slope Hill above the TPLM Zone.²⁹⁰ The poor condition and leakiness of the Race was noted during our site visit to Slope Hill. We acknowledge that the Race could contribute unanticipated additional flow to TPLM stormwater system. However, we consider that the TMLP stormwater management approach and design should not be required to mitigate the Arrow Irrigation scheme and landowner risks.²⁹¹

²⁸⁵ Response Statement of John Gardiner at [4]-[5].

²⁸⁶ At [4.3]-[4.6]

²⁸⁷ Summary of Evidence, Appendix A at page 4.

²⁸⁸ RCP8.5 (2018-2100) values for all post development, as agreed by the stormwater experts in joint witness conferencing (1(c) Attachment A of the Infrastructure joint witness statement) rather than RCP6.5 as notified.

²⁸⁹ Infrastructure Joint Witness Statement, Attachment A.

²⁹⁰ Submissions 33, 48, 110 and 115.

²⁹¹ Across whose land the race traverses.

- 11.32 GDL, Sanderson and Maryhill Limited submissions sought greater flexibility for the location of parks and the possible use of parks for stormwater management function. They also sought greater flexibility in the design, location and size of the public park in sub–Area C (community park). Ms Galavazi's evidence (addressed in Section 10) set out the purpose and function of parks, reserves and open spaces in the TPLM Zone.²⁹² For the reasons set out above we express no view on dual purpose reserves in relation to the community and two local parks (beyond that they must deliver their recreational / social requirements). There may be an ability to develop them in a manner that recognises the wider benefits they can provide and efficiently use land. As set out in Section 10 that is best considered at the time of subdivision consent.
- 11.33 Kāi Tahu submitted for the provision and development of blue-green corridors through the TPLM Site can achieve multiple cultural, recreational, freshwater and ecological objectives.²⁹³ We can see how stormwater management and providing secondary flow paths can mitigate development effects on ecological values (and as set out in Section 8 above support connectivity) and amenity values through the TPLM Zone as well as contributing to avoiding discharges to Waiwhakaata Lake Hayes. We consider that the revised provisions (including Policy 27.3.24.3), as proposed in the Reply s42A Report, appropriately address this matter.
- 11.34 During the Hearing, and as the stormwater management approach was refined in response to the evidence and our various questions, we were required to consider the implications of the changes on development and on the fully implemented stormwater system. Our concerns included whether the first developer's stormwater solution could lock the location of the stormwater solution for adjoining properties and whether there were potential dependencies on parts of the system being in place before other developers could proceed. We agree that the overland flow path for the extreme weather events must be designed in an integrated manner across the TPLM Zone. But we do not agree with the Council's proposed non-notification wording and have amended it to focus solely on the extreme weather overland flow path and require limited notification unless relevant affected party approvals (including Kāi Tahu) are provided.
- 11.35 We acknowledge that the stormwater management is not a centralised system and consider that the reason for this have been well traversed through evidence. Even so we consider the integrated system envisaged by the Council will provide for the outcomes and relief sought from Kāi Tahu, the Department of Conservation, the Friends of Lake Hayes Inc. and other submitters. We consider that the integrated stormwater approach and provisions, including the Structure Plan, provide flexibility for land development while ensuring the anticipated stormwater and freshwater outcomes will be achieved. We encourage TPLM Zone land developers to continue to work together.
- 11.36 We accept Ms Prestidge's recommendation to include provisions requiring stormwater infrastructure design and construction in accordance with the Council's Code of Practice and any TPLM stormwater guidelines. We are satisfied that an integrated stormwater

²⁹² Statement of Evidence.

²⁹³ Submission 100.

system based on Guiding Principles for Stormwater Management provides the relief sought by submitters opposing the notified stormwater management approach and seeking protection of Waiwhakaata Lake Hayes. Elements of the integrated system are required to be demonstrably supported by hydraulic modelling of critical design storms in accordance with the Council's Code of Practice and the Council's Stormwater Modelling criteria and applying RCP8.5 scenario rainfall.

11.37 The NPS-FM 2020 (amended January 2024) requires that freshwater is managed in a way that 'gives effect' to Te Mana o te Wai (see Section 3). The NPS-FM sets out the fundamental concept of Te Mana o Te Wai in clause 1.3(1):

(1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

11.38 The Council has actively worked with Kāi Tahu on master planning through to the TPLM Variation drafting and Hearing²⁹⁴ and have discussed that in the Cultural Section above. The amended stormwater provisions reflect the desire to restore the mauri of Waiwhakaata Lake Hayes by avoiding activities that would contribute to its further degradation. The soakage of up to the 1% AEP to ground provides for water to follow the natural water cycle and aligns with the integrated approach set out in NPS-FM clause 3.5. Rainfall events that exceed the 1% AEP will give rise to overland flow that would naturally flow toward Waiwhakaata Lake Hayes. We consider that this contributes positively to restoring the mauri of Waiwhakaata Lake Hayes. Te Mana o te Wai has been applied in developing the TPLM Variation and through the Hearing process and we agree with Ms Prestidge that the provisions give effect to Te Mana o te Wai.²⁹⁵ We have addressed in the Cultural Section above how Mr Brown has accepted and largely folded into the provisions the changes sought by Kāi Tahu.

11.39 We are also satisfied that the provisions as amended are consistent with PDP Policy 24.2.4.2 and have regard to the Minister's expectations as to stormwater management and the protection of sensitive receiving environments.

11.40 Mr Brown in his s42A Report accepted the suggested changes from Mr Gardiner and Ms Prestidge at that time and changes in response to submissions, especially on behalf of Kāi Tahu.²⁹⁶ That resulted in numerous amendments on which Mr Brown sought comments during the Hearing. Mr Brown also provided an updated (8 December) version of the provisions reflecting Hearing Panel questions to that point during the hearing. In his Reply s42A Report Mr Brown gave further consideration as to whether the stormwater provisions were sufficient to ensure the necessary integration between different landowners to ultimately ensure the protection of Waiwhakaata Lake Hayes and proposes further amendments to the provisions.

²⁹⁴ NPS-FM Policy 1 and Policy 2

²⁹⁵ Statement of Evidence at [53].

²⁹⁶ At [11.227].

- 11.41 We agree with Mr Brown's changes²⁹⁷ (based on Ms Prestige's evidence) to:
- (a) amend Rule 27.7.28 to require flows from Slope Hill to be soaked to ground for the 1% AEP event, or if not possible, as close to 1% as possible;
 - (b) use the RCP8.5 climate change adjusted rainfall values in preference to RCP6; and
 - (c) include a requirement to prepare a single pre-development full catchment hydraulic model encompassing Slope Hill and the full TPLM Zone for all critical design storms up to and including the 1% AEP event.
- 11.42 Mr Brown in his Reply s42A Report²⁹⁸ included additional provisions, which we support, being inclusion of:
- (a) a new 'integration' section to clarify the information, coordination, and integration requirements and a new information requirement; and
 - (b) a swale to address stormwater from Slope Hill be shown on the Structure Plan.
- 11.43 We have addressed the issue of notification in relation to stormwater above. We accept that a limited notification approach is required and agree with Mr Brown²⁹⁹ that while it is not very efficient, the other options will not be effective. As stated above we have amended this provision to make it more focused and hence efficient and effective. We consider that it is the most appropriate method to achieve the policies and objectives.
- 11.44 Finally, as stated above, we have removed the reference to the 5% AEP fallback for runoff from Slope Hill to Avoid that becoming the de facto "as far as possible".
- 11.45 Otherwise, we propose no further changes to the stormwater management provisions of the TPLM Zone other than where we have recommended minor corrections or refinements and would like to record our appreciation for the endeavours of the stormwater, infrastructure and planning experts that have provided us with an agreed and comprehensive suite of stormwater management provisions.
- 11.46 In making the recommendations through the Hearing process, and culminating in the Reply s42A Report, Mr Brown has provided a s32AA evaluation for the changes proposed. Those changes reflect the discussion had during the Hearing and we accept and adopt those assessments. Where we have not agreed with the Council and have recommended changes, our own s32AA evaluation has concluded that our refinements will be more appropriate than the Council's recommendations.

Key Findings and Recommendation

- 11.47 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1**. The proposed provisions are a step change for the District and will, in our view, appropriately provide for stormwater management within the TPLM Site and protect Waiwhakaata Lake Hayes. In this way we consider that the provisions as proposed have regard to the Minister's expectations,

²⁹⁷ Reply s42A Report at [4.2].

²⁹⁸ At [4.3]-[4.5].

²⁹⁹ Reply s42A Report at [4.11].

give effect to the NPS-FM and Te Mana o te Wai and are consistent with Policy 24.2.4.2 of the PDP.

11.48 We therefore accept the submissions referred to in this section insofar as they align with the provisions as we recommend and reject them to the extent they differ.

12. TRANSPORT

12.1 Traffic congestion and effects was an issue raised by a significant number of submitters³⁰⁰ and it is a matter which the Hearing Panel has considered and tested with experts to a significant degree. Some submitters, including the AA Southern Lakes,³⁰¹ supported the TPLM Variation while noting the "imperative" that transport issues are addressed.

Traffic Modelling

12.2 Many submissions relating to traffic congestion were received, with concerns over the suitability of the traffic modelling also being expressed.³⁰² We heard from Mr Burnell,³⁰³ Mr Victor,³⁰⁴ Ms Austin,³⁰⁵ and others, both through written submissions and presenting to us in person, outlining their significant concerns in relation to traffic congestion and the effect of TPLM on it. We heard that they struggle to get their children to school on time and that they often experience significant delays in being able to exit the existing neighbourhoods south of State Highway 6 onto that road. We heard that the current bus services are inadequate as they also get caught in the same congestion that affects other traffic. Concerns were expressed about the potential for overspill parking and the lack of walking and cycling networks. As Mr Alexander succinctly put it in response to questions from the Hearing Panel, "there's just too many bloody cars."³⁰⁶

12.3 We questioned Mr Shields and Mr Smith closely with regard to traffic modelling and requested, and were provided with, substantial technical information.³⁰⁷

12.4 Mr Shields noted that there is a reduction in existing congestion during school holidays.³⁰⁸ He also noted that some 870 students live to the east of Shotover Bridge but

³⁰⁰ The majority (if not all) of the following submissions that oppose the Variation are concerned about the traffic effects arising from the Variation - J Allen (1), U Davis (2), G Mark-Deary (3), G Dear (4), M Pettit (5), T Sanders (6), J Berriman (9), M Camilleri (10), I Moore (11), K Smith (12), J Newson (13), B Findlay (14), N Crouch (15), V Noskov (16), N Brown (17), S Melton & P Wong (18), S Belk (20), N Fairweather (21), A Meredith (22), N Lisitsina (23), J James (25), K Pirovano (26), J Lazar (28), H MacPherson (29)
*note – unfortunately has since passed away, J Doe (30), G McBride (31), L Martin (32), J Crane (33), D Andrew (34), P Chudleigh (35), J Johnston (38), R Bowman (39), A Styris (40), S Pratley (41), B Yuill (42), M Spary (43), DOC (44), R Burnell (47), L Anderson (48), N Busst (49), G Egerton (52), P Thompson (53), S & K Strain (54), C Austin (57), R Cranfield (58), L Prytherch (59), M Pryde (60), Shotover Primary School (61), A McCarthy (61), J Smith (62), S Thornburg (63), R Kuhm (64), W Stiven (65), R George (66), S O'Donnell (67), N Winstone (68), J Alexander (70), T Stack-Forsyth (72), Blakely Wallace Family (74), Park Ridge Limited (75), M Wheeler (76), Ladies Mile Pet Lodge Limited (78), LHESHCCA (79), Roman Catholic Bishop of Dunedin (82), FlightPlan2050 (84), M Read (87), L Nicolson (88), S Victor (89), D Behan (90), A Morris (91), S Brent (92), R Copland (96), P Crick (97), L McQuillan (98), Queenstown Country Club (106), R Macleod (109), T Sydney (110), R Hanan (111), J Lee (112), D Bergin (113), G Griffin (114), K & J Crane (115), M Bailey (116), N Martin (117), M Barrett (118), J Hamilton (119), L Keoghan (120), D Foggo (121), M Cole Bailey (122), R Crick (123), G Tayler (124) and N Scholfield (125).

³⁰¹ Submitter 56.

³⁰² Transportation Joint Witness Statement.

³⁰³ Submitter 79.

³⁰⁴ Submitter 89.

³⁰⁵ Submitter 57.

³⁰⁶ Submission 70.

³⁰⁷ Statement of Evidence of Mr Smith at [9.1]-[9.5], [53] – [55], [137] – [144] and Appendix C; Mr Smith's Written Response to Questions (14 December) at [1(b)]-[1(e)], and 2; Rebuttal Evidence of Mr Shields, Appendix A at [38] – [39], and [46]; and Mr Shields' Written Response to Questions 5th and 6th December at [3], [19], and Appendix A and B.

³⁰⁸ Statement of Evidence of Mr Smith at [143].

attend school to the west, and that school trips represents around 19% of the morning peak westbound traffic flow on Shotover Bridge.³⁰⁹ From Mr Smith's evidence, some 21% of the 345 morning peak hour inbound trips to TPLM for education purposes would be from Lakes Hayes Estate and Shotover Country.³¹⁰

- 12.5 All experts agreed that Mr Shields and Mr Smith had correctly described the current road network performance in the vicinity of the TPLM Site and that extensive queueing currently occurs on different parts of the road network during the morning and evening peak periods.³¹¹ All parties also agreed that in terms of the effects of the TPLM Variation, the focus should be on achieving 'nil detriment'. We take this to mean that congestion on SH6 is no worse in future with TPLM in place than it would have been without it. This would be achieved through a combination of mode shift, infrastructure provision and provision of local goods and services (for example schools and a supermarket) that support not only the TPLM Site but also the adjacent communities of Lake Hayes Estate and Shotover Country.
- 12.6 We note that no intersection or other traffic or public transport modelling has been undertaken for the AHFT land by Mr McKenzie or Mr Bartlett.
- 12.7 Mr Shields' original assessment of traffic effects, and identification of intersection upgrades and pedestrian crossing infrastructure considered appropriate to support the TPLM Variation, was based on retaining the existing 100km/hr speed environment along SH6.
- 12.8 The traffic experts agreed that reducing the speed limit on SH6 to 60km/hr would be appropriate and would help achieve the overall outcomes desired for non-vehicular travel modes.³¹² This slower speed limit also supports the introduction of signals at Stalker Road and Howards Drive as recommended by Mr Shields to improve network capacity and provide at grade crossing facilities for pedestrians and cyclists.³¹³ Mr Smith supported this position.³¹⁴
- 12.9 The traffic engineering experts agreed that to support, and make realistic, such a speed limit reduction, there would need to be a substantial reduction in, or removal of, the Council's proposed 'gateway' SH6 amenity setbacks, noting that there are other factors to consider before confirming this.³¹⁵ There was considerable discussion with a range of other experts, including landscape, ecology and urban design specialists, in relation to the SH6 corridor and how the TPLM Variation may change its look and feel. There was agreement that the TPLM Variation will change the look and feel from a rural road to an urban connector road.³¹⁶ A number of different setback options were put forward by both

³⁰⁹ At [21 (c)].

³¹⁰ Dave Smith's Written Response to Questions (14 December) at [1(d)].

³¹¹ Transportation Joint Witness Statement; Statement of Evidence of Mr Shields at [21], [51] – [55], and Appendix C; and Statement of Evidence of Mr Smith at [10.1] – [10.14].

³¹² Transport Joint Witness Statement, page 3.

³¹³ Statement of Evidence of Colin Shields at [54 (c) and (d)]; and Dave Smith's Summary Statement at [2.1].

³¹⁴ Mr Smith's Written Response to Questions 6th December, page 1.

³¹⁵ Transportation Joint Witness Statement; Mr Bartlett's Summary Statement at [12]; and Mr McKenzie Summary Statement at [6] – [8].

³¹⁶ Urban Design and Traffic Joint Witness Statement, page 1.

Council and submitters³¹⁷ allowing for between 57m and 70m between building faces and different width amenity access corridors. No consensus was reached.

- 12.10 Active travel pathways are proposed within these corridors, linking to key crossing locations across SH6. The location and form of these has evolved through the Hearing. All experts agreed on the importance of providing for active travel modes and for there to be linkages between the TPLM Site and the existing communities at Lake Hayes Estate and Shotover Country.
- 12.11 Mr Smith advised that traffic modelling should be undertaken to confirm network performance at 60km/hr. Mr Shields confirmed that his SIDRA intersection analysis has been undertaken to reflect this.³¹⁸
- 12.12 Mr Shields recommended the installation of traffic signals at both Stalker Road and Howards Drive intersections with SH6³¹⁹ and confirms that SIDRA intersection modelling demonstrates signal-controlled intersection layouts are feasible and could provide improved bus service reliability and journey times by advancing bus movements over other traffic.³²⁰ Mr Smith agreed with this proposal.³²¹ The experts also agreed that signalling this intersection would remove the need for a pedestrian underpass under SH6³²² to create the fundamental active mode link between TPLM with Lakes Hayes and Shotover Country as this could then be more appropriately provided at-grade.
- 12.13 Mr Smith also acknowledged that:³²³
- Whilst the matter of implementing changes in speed limit is one for Waka Kotahi as road controlling authority, I am comfortable that there are mechanisms in place to urbanise the corridor and enable the upgrades to signals to be delivered. This includes consideration of design treatments to manage speeds such as threshold treatments and raised intersections which can be addressed at later design stages.
- 12.14 The desire to see triggers for development was a common theme among the submissions,³²⁴ with some being Sub Area specific³²⁵ and others being related to TPLM as a whole.³²⁶
- 12.15 Mr Shields identified a number of infrastructure projects that he considered should be completed prior to any development occurring within the medium or high-density areas of the TPLM Site:³²⁷

³¹⁷ Urban Design and Traffic Joint Witness Statement, page 1 and 2.

³¹⁸ Mr Shields' Written Response to Questions 5th and 6th December at [19].

³¹⁹ At [54(c)and (d)].

³²⁰ Rebuttal Evidence at [11] - [21].

³²¹ Statement of Evidence at [10.12].

³²² Transportation Joint Witness Statement, page 8.

³²³ Mr Smith's Summary Statement at [1.2].

³²⁴ Submissions Jake Allen (submitter 1), Ursula Davis (submitter 2), Gretchen Mark-Dear (submitter 3), Shane Melton & Phylis Wong (submitter 18), Katie Hill (submitter 19), Lois Martin (submitter 32), Peter Chudleigh (submitter 35), Julie Johnston (submitter 38), Bill Yuill (submitter 42), Gary Erving (submitter 51), Neil McDonald & Clark Fortune McDonald & Associates (submitter 55), Robert Cranfield (submitter 58), Jason Smith (submitter 62), Sherry Thornburg (submitter 63), Nick Winstone (submitter 68), Blakely Wallace Family (submitter 74), Park Ridge Limited (submitter 75), Maree Wheeler (submitter 76), Melissa Read (submitter 87), Stuart Victor (submitter 89), Ferry Hill Trust (submitter 96), Tim Allan (submitter 103), Robyn Macleod (submitter 109), Ralph Hanan (submitter 111), Debbie Bergin (submitter 113), Nicky Martin (submitter 117) and Martin Barrett (submitter 118).

³²⁵ Ladies Mile Property Syndicate (submitter 77), Ladies Mile Pet Lodge Limited (submitter 78), Koko Ridge Limited (submitter 80), Sanderson Group and Queenstown Commercial (submitter 93), Winter Miles Airstream Limited (submitter 94) and Maryhill Limited (submitter 105).

³²⁶ Statement of Evidence of MrShields at [93] and [96].

³²⁷ Response of Colin Shields (Traffic) dated 25 January 2024.

- (a) Stalker Road bus priority measures;
 - (b) NZ Upgrade Programme (**NZUP**) Bus priority measures west of Shotover Bridge i.e. both eastbound and westbound bus lanes between Shotover Bridge and the SH6/SH6A intersection; and
 - (c) Westbound bus lane between Howards Drive and Shotover Bridge.
- 12.16 The minor exception to the above is that Mr Shields does not consider the Stalker Road bus priority and westbound bus lane between Howards Drive and Shotover Bridge to be required to support development within Sub Areas F and G.³²⁸ Mr Shields identifies a range of other infrastructure triggers that relate to Sub Areas that are immediately adjacent or might reasonably be expected to depend on a particular upgrade.³²⁹
- 12.17 Mr Shields considered Sub Area H2, and identified different pre-development infrastructure requirement depending on the scale of development that is proposed.³³⁰ The range of development opportunity for H2 is discussed in Section 14. Mr Shields also identified infrastructure requirements and triggers for the AHFT land (see Section 14), with these being the provision of the Stalker Road bus priority measures and the NZUP bus priority measure west of the Shotover Bridge.³³¹ Additional specific measures are also included for Sub Areas K1 and K2 (and now K3).³³²
- 12.18 He advised a relaxation of these in relation to the development of a supermarket in Sub Area D as an ‘easy win’ in relation to reducing some trips from Lakes Hayes and Shotover Country westwards to Frankton and Queenstown.³³³
- 12.19 Mr Smith presented an alternative opinion, preferring an approach that limits development to the east of any identified infrastructure upgrade on the premise for example, that all development would increase demand at the Stalker Road intersection and therefore no development should be allowed to occur until this has been upgraded.³³⁴
- 12.20 Consensus was not reached amongst traffic experts on development staging and triggers during conferencing.³³⁵
- 12.21 Concerns were raised by several submitters³³⁶ in relation to the delivery of infrastructure projects and wider travel demand management initiatives.³³⁷ Mr Smith expressed concern in relation to how the effects of TPLM could be mitigated, stating that there are “several areas of risk and uncertainty relating to the delivery of infrastructure and staging of development.”³³⁸

³²⁸ Response of Colin Shields (Traffic) dated 25 January 2024 at [18] and [26].

³²⁹ Response of Colin Shields (Traffic) dated 25 January 2024 Table 1, at [17] - [27].

³³⁰ Response of Colin Shields (Traffic) dated 25 January 2024 Table 1, at [33] - [35].

³³¹ Response of Colin Shields (Traffic) dated 25 January 2024 Table 1, at [32].

³³² Response of Colin Shields (Traffic) dated 25 January 2024 Table 1, at [31].

³³³ Response of Colin Shields (Traffic) dated 25 January 2024 at [4].

³³⁴ Summary Statement at [2.7] and Table 2.

³³⁵ Transport Joint Witness Statement, page 2.

³³⁶ J Allen (1), Lake Hayes Estate Community Association (79), S Victor (89) and Ferry Hill Trust (96).

³³⁷ Statement of Evidence of Mr Shields at [102].

³³⁸ Statement of Evidence at [13.2].

12.22 In his statement of evidence Mr Smith made several recommendations to address these risks which include:

- (a) Upgrading the SH6/Stalker Road intersection;
- (b) Upgrading the Howards Drive/SH6 intersections prior to any development occurring;
- (c) Treatments to urbanise SH6 in keeping with a 60km/hr speed environment
- (d) Retaining and enhancing planning provisions that support early development of non-residential activities;
- (e) Installing both eastbound and westbound SH6 bus lanes between Shotover Bridge and SH6/SH6A intersection and westbound SH6 bus lane along Ladies Mile before development occurs;
- (f) Installing northbound bus priority on Stalker Road, additional bus priority on Stalker Road and additional bus priority measures with existing subdivisions;
- (g) Undertaking regular traffic monitoring to measure mode shift success or otherwise; and
- (h) Requiring developments to provide Travel Plans and Integrated Transportation Assessments.

12.23 Mr Smith concluded that “the above matters must be satisfactorily addressed in order to achieve the outcomes that are sought through the Transport Strategy and Mr Shields evidence.”³³⁹

12.24 Mr Pickard noted that significant capital expenditure projects are typically co-funded between Waka Kotahi and Council, with other smaller schemes potentially being funded through the Low-Cost Low Risk programmes, depending on the outcome of appropriate business case studies.³⁴⁰ He went on to state that:³⁴¹

...ideally all transport infrastructure and services should be in place at the earliest opportunity but with the current affordability issues amongst transport partners this may not be possible. That said, it is important for QLDC to clearly commit to the intention to facilitate development of the area, to give certainty to all investment partners.

12.25 Noting that the consensus between the Way to Go partners³⁴² is that TPLM can be supported, Mr Pickard advised that in his opinion “each partner will address its individual area of interest.”³⁴³

12.26 Mr Smith outlined the package of NZUP works that is being developed and delivered by Waka Kotahi. The wider NZUP package of works as advised by Mr Smith in his statement of evidence includes:

³³⁹ Statement of Evidence at [13.3].

³⁴⁰ Statement of Evidence at [19].

³⁴¹ Statement of Evidence at [25].

³⁴² Waka Kotahi NZ Transport Agency, the Council and Otago Regional Council.

³⁴³ Summary Evidence at [5(a)].

- (a) The installation of signals at key intersections along SH6 from SH6/SH6A and Hawthorne Drive;
 - (b) Upgrading Howards Drive/ SH6 to a roundabout with an underpass;
 - (c) Westbound bus lanes on SH6 between Howards Drive and Shotover Bridge, and between Hardware Lane and SH6/SH6A intersection;
 - (d) An eastbound bus lane on SH6 between SH6/SH6A intersection and Hawthorne Lane; and
 - (e) Improvements to SH6 to the south of SH6/SH6A intersection.
- 12.27 Mr Smith advised that the SH6/SH6A and Howards Drive/SH6 intersection upgrades are programmed to start delivery in early 2024 and are likely to take around two years to complete. He also advised that in his understanding “NZ Transport Agency Waka Kotahi are committed to deliver the full NZUP Queenstown package however timing of implementation is uncertain.”³⁴⁴
- 12.28 Mr Smith went on to elaborate that the NZUP Queenstown package was included in the National Party pre-election transport documentation and that there was a reasonable expectation that this would be included in the GPS for Land Transport Funding.
- 12.29 Mr Smith confirmed that he is unaware of any plans to “upgrade, replace or duplicate the existing Shotover Bridge”.³⁴⁵
- 12.30 There was also discussion with both Mr Shields and Mr Smith in relation to early delivery of the schools within TPLM, particularly the high school. Both agreed that this would be advantageous.³⁴⁶ Submitters from within Lake Hayes and Shotover Country were also supportive of this and have requested this relief directly. Submitters from within Lake Hayes and Shotover Country were also supportive of early development of a supermarket.³⁴⁷

Public Transport and Mode Shift

12.31 In terms of the TPLM Transport Strategy, Mr Shields stated that its vision is to:³⁴⁸

...create an accessible, healthy, safe and sustainable TPLM community by reducing reliance on car use, by providing a well-connected street network to local community facilities and invest in active and public transport modes so that walking, cycling and bus use are everyone’s first travel choice.

12.32 A number of bus-related infrastructure projects are included within the TPLM Zone provisions associated with development staging as discussed earlier. A bus, walking and cycling link from SH6 along Sylvan Street is also proposed. Mr Shields considers that the TPLM masterplan:³⁴⁹

...provides a high density, mixed use, transit orientated development... [and] also provides walk, cycle and bus connections for the adjacent residents at Shotover Country and Lakes Hayes Estate to access

³⁴⁴ Mr Smith Written Response to Questions 14 December.

³⁴⁵ Statement of Evidence of Mr Smith at [8.3].

³⁴⁶ Mr Smith Verbal Response to Questions 8th December and Mr Shields Verbal Response to Questions 5th December.

³⁴⁷ Lake Hayes and Shotover Country Residents Association Submitter (47) and Mr Burnell Verbal Presentation 11th December.

³⁴⁸ Statement of Evidence of Mr Shields at [28].

³⁴⁹ Statement of Evidence of Mr Shields at [13].

the schools. Local Centre, Community Hub, Sports Hub and community facilities to be provided within TPLM.

- 12.33 The bus strategy presented by Mr Shields focused on using high quality bus stops on SH6, with the majority of TPLM being within a 500m walk of these.³⁵⁰ Mr Shields has presented detailed evidence in relation to the required target mode share for bus and active travel modes needed to support development of up to 2,400 households.³⁵¹ He assessed that some 1,800 households would be required to make a 10-minute service sustainable.³⁵² It was reported that at around 1,100 households, buses would be about half full only.³⁵³ He also stated that the combined population of TPLM, Lake Hayes Estate and Shotover Country would be “a large enough population base for public transport services to be financially viable and feasible.”³⁵⁴
- 12.34 Mr Shields presented evidence that TPLM could reasonably expect 57% non-car mode shares for external trips to the Zone.³⁵⁵ Mr Smith considers this to be a “transformational shift from vehicle reliance,”³⁵⁶ and, in response to our written questions before the Hearing³⁵⁷ asking how realistic the mode shift and travel assumptions are replied “Aspirational!”³⁵⁸ Mr Shields added to that comment that “to the best of my knowledge these mode shifts are unprecedented in a New Zealand context.”
- 12.35 Mr Shields considered that this level of mode shift is achievable based on experience in Aspen, Colorado and on delivery of the TPLM Transport Strategy.³⁵⁹ Mr Pickard concurred.³⁶⁰
- 12.36 All transportation experts agreed that establishing efficient and frequent public transport services at an early stage of development is key to achieving mode shift,³⁶¹ however there was disagreement as to whether the proposed bus lane and service frequency along SH6 represents a Rapid Transit Service (**RTS**). Mr Shields, Mr Pickard and Mr Smith considered that it does not meet the definition as set out in in the NPS-UD and as such, a 400m – 500m walking distance to bus stops is preferred.³⁶² Mr McKenzie and Mr Bartlett presented an alternative view, considering that an appropriate walking distance to bus stops is some 800m³⁶³ based on the future bus service being promoted as a 10 minute frequency service.³⁶⁴ They also considered that an off-highway bus route network is appropriate either as an alternative,³⁶⁵ or in addition,³⁶⁶ to the SH6 focus. Mr Barlett also considered SH6 to be a RTS.³⁶⁷ This has the effect of increasing the acceptable

³⁵⁰ Statement of Evidence of Mr Shields at [34(c)].

³⁵¹ Statement of Evidence of Mr Shields at [30] – [33], Appendix C Abley Technical Note Section 4 and Section 6.

³⁵² Mr Shields Written Response to Questions 5th and 6th December at [14 – 15].

³⁵³ Mr Shields Verbal Response to Questions 5th December.

³⁵⁴ Statement of Evidence of Mr Shields at [109].

³⁵⁵ Mr Shields Summary Evidence at [5].

³⁵⁶ Statement of Evidence of Mr Smith at [11.1(c)].

³⁵⁷ Hearing Panel Questions, 21 November 2023, Question 1.13. Appendix B to Mr Shield's Summary Statement.

³⁵⁸ Mr Smith Verbal Response to Questions 8th December.

³⁵⁹ Mr Shields Written Response to Questions 5th and 6th December at [12]; Mr Shields Writtren Response to Pre-Hearing Questions at [41] – [43]; Mr Shields Summary Evidence at [6]; Mr Shields EIC at [111], [117] and [119] – [124].

³⁶⁰ Statement of Evidence of Mr Pickard at [13].

³⁶¹ Transportation JWS.

³⁶² Mr Shields Written Response to Pre-Hearing Questions at [17].

³⁶³ Mr Bartlett Summary Evidence at [13]; and Statement of Evidence of Mr McKenzie and Mr Bartlett at [54].

³⁶⁴ Mr Shields Summary Statement, Appendix B and the Transport Strategy appended to the s32 Evaluation Report.

³⁶⁵ Mr Bartlett Summary Evidence at [7].

³⁶⁶ Mr McKenzie Summary Evidence at [5].

³⁶⁷ Mr Bartlett Summary Evidence at [13].

walk distance to public transport facilities to 1.2km as per the Waka Kotahi guidance note referenced in his evidence.³⁶⁸

12.37 Mr Parlane and Mr Shields both presented evidence to us regarding housing density and public transport service provision and uptake. Mr Shields and Mr Parlane agree that a minimum density of 40 dwellings per hectare is required.³⁶⁹ Mr Shields went on to state that there are further mode shift gains to be achieved at higher dwelling densities.

12.38 Mr Parlane presented a slightly different view. In his opinion, whilst a degree of housing density is an important factor in supporting a higher bus mode share, in his view there are diminishing returns to be gained as density increases.³⁷⁰ Mr Parlane advised that the difference between a density of 40 hh/ha and 60 hh/ha is around 5% bus mode share only.

12.39 Mr Parlane quoted research by Paul Mees:³⁷¹

All other things being equal, density does have an impact on transport patterns. But all other things are definitely not equal, and the effect of density is outweighed by other factors unless the differences in density are huge.

12.40 Mr Parlane stated that:³⁷²

Mees' conclusion was that transport policy makes a bigger difference to mode share than urban form. In the case of the Variation, there is an implied policy that the capacity of SH6 and the Shotover Bridge are fixed in the short and medium term and that additional person trips out of the area will be dealt with through improved bus services. I fully support this approach.

12.41 Several submitters raised concerns in relation to public transport³⁷³ and mode shift relating to TPLM,³⁷⁴ with common themes being inadequacy of services, insufficient population base to support increased bus frequency, weather being an inhibitor to mode shift, unsuitability of non-car modes for many trips, lack of evidence base for targets and concern of deliverability and effects if targets are not reached. Mr Burnell put the community concern very clearly when commenting on the degree of car use and

³⁶⁸ Statement of Evidence of Mr McKenzie and Mr Bartlett at footnote 16.

³⁶⁹ Mr Shields Written Response to Questions 5th and 6th December at [7] and Mr Parane EIC at [9.2].

³⁷⁰ Statement of Evidence of Mr Parlane at [6.6] – [6.12].

³⁷¹ Statement of Evidence of Mr Parlane at [64].

³⁷² Statement of Evidence of Mr Parlane at [6.5].

³⁷³ Ursula Davis (submitter 2), Richard Pettit (submitter 5), Nathan Brown (submitter 17), Nicole Fairweather (submitter 21), Kate Pirovano (submitter 26), Jim and Deirdre Robinson (submitter 27), Peter Chudleigh (submitter 35), Sam and Kylie Strain (submitter 54), Celine Austin (submitter 57), Margo Pryde (submitter 60), Blakely Wallace Family (submitter 74), Park Ridge Limited (submitter 75), Maree Wheeler (submitter 76), Ladies Mile Pet Lodge Limited (submitter 78), Lake Hayes Estate Community Association (submitter 79), Robyn Macleod (submitter 109) and Rosemary Lee Crick (submitter 123).

³⁷⁴ Graeme Dear (submitter 4), Richard Pettit (submitter 5), Jay Berriman (submitter 9), J G Newson (submitter 13), Nathan Brown (submitter 17), Katie Hill (submitter 19), Nadia Lisitsina (submitter 23), Jennifer James (submitter 25), Kate Pirovano (submitter 26), Jim and Deirdre Robinson (submitter 27), Geraldine McBride (submitter 31), Peter Chudleigh (submitter 35), Julie Johnston (submitter 38), Shane Pratley (submitter 41), Robert Burnell (submitter 47), Nicky Busst (submitter 49), Gary Erving (submitter 51), Peter Thompson (submitter 53), Sam and Kylie Strain (submitter 54), Neil McDonald & Clark Fortune McDonald & Associated Ltd (submitter 55), Celine Austin (submitter 57), Robert Cranfield (submitter 58), Margo Pryde (submitter 60), Wayne Stiven (submitter 65), Sarah and Blair O'Donnell (submitter 67), Nick Winstone (submitter 68), Blakely Wallace Family (submitter 74), Park Ridge Limited (submitter 75), Maree Wheeler (submitter 76), Ladies Mile Pet Lodge Ltd (submitter 78), Lake Hayes Estate Community Association (submitter 79), Melissa Read (submitter 87), Stuart Victor (submitter 89), Dennis Behan (submitter 90), Philippa Crick (submitter 97), Louise McQuillan (submitter 98), Tim Allan (submitter 103), Maryhill Limited (submitter 105), Robyn Macleod (submitter 109), Travis Sydney (submitter 110), Gordon Griffin (submitter 114), Maryann Bailey (submitter 116), Martin Barrett (submitter 118), Jane Hamilton (submitter 119) and Rosemary Lee Crick (submitter 123).

dependency within the community “take a walk around Shotover Country, just have a look at how many cars in Shotover Country are jammed up against each other.”³⁷⁵

12.42 Mr Smith advised that due to the lack of absolute certainty around the future success of the mode shift aspirations expressed through the TPLM Transport Strategy, that regular monitoring of traffic volumes, monitoring and integration of travel planning into the Transport Interventions Plan and requiring an Integrated Transportation Assessment for all resource consent applications, was required within the TPLM Variation.³⁷⁶

12.43 Mr Shields supported the inclusion of mode share monitoring as part of resource consenting processes for more than 10 residential units or any commercial, retail or educational facilities.³⁷⁷ Mr Shields does not support imposing a direct limit on the number of households that can be developed and stated that:³⁷⁸

...I understand that it is very unlikely that 2,400 residential units at TPLM will be exceeded...on that basis, I am largely comfortable if there is no housing cap or density maximum limit.

Internal Roads

12.44 The TPLM Structure Plan includes expected road cross sections for both SH6 and different collector and local road typologies. Mr Shields confirms that the internal road cross sections have been developed to:³⁷⁹

...provide a safe, healthy and attractive urban environment to promote walking and cycling within the TPLM internal streets through by example the provision of wide footpath widths, segregated cycleways and a low speed environment.

12.45 These are supported by appropriate requirements for end of trip facilities for cyclists, cycle parking and other walking and cycling network improvements linking to the wider Whakatipu Active Travel Network.³⁸⁰

12.46 A number of submissions³⁸¹ raise the provision of walking and cycling facilities as being of concern, either in that they are not extensive enough, will disrupt traffic operations, or will not be delivered at all.³⁸²

12.47 The cross sections of SH6 are discussed in Section 13, as is the agreed deletion of the parallel laneway on the north side of the corridor.

12.48 We have also received a submission from Fire and Emergency NZ expressing concern relating to on-street parking and road widths, with their focus being on ensuring that access is maintained for emergency service vehicles.³⁸³

³⁷⁵ Mr Burnell Verbal Presentation 11th December.

³⁷⁶ Statement of Evidence of Mr Smith at [13.2 (i)] and Summary Evidence at [2.10].

³⁷⁷ Response of Colin Shields (Traffic) dated 25 January 2024 at [6] and [10].

³⁷⁸ Response of Colin Shields (Traffic) dated 25 January 2024 19 December at [9].

³⁷⁹ Statement of Evidence of Mr Shields at [34 (a)].

³⁸⁰ Statement of Evidence of Mr Shields at [34 (e)] and [(g)].

³⁸¹ Sandy Waddingham (submitter 7), Jennifer James (submitter 25), Shane Pratley (submitter 41), Lloyd and Debbie Anderson (submitter 48), Romain Kuhm (submitter 64), Sarah and Blair O'Donnell (submitter 67), Ladies Mile Property Syndicate (submitter 77), Stephen Brent and Sheena Haywood (submitter 92), Sanderson Group and Queenstown Commercial (submitter 93), David Finlin (submitter 101), Robyn Macleod (submitter 109), Janie Reese and Rob Lee (submitter 112), Kirsty and Justin Crane (submitter 115), Louise and Philip Keogh (submitter 120).

³⁸² Statement of Evidence of Mr Shields at [130].

³⁸³ Submission 36 section 1.2.2.

- 12.49 The degree of specificity of road location within TPLM was discussed at some length. Mr Bartlett preferred Collector Road A to be relocated to better align with the existing paper road to reduce dependence on other landowners, particularly regarding the Glenpanel site.³⁸⁴ Others also prefer there to be a degree of flexibility in terms of location of where roads within TPLM can be located.³⁸⁵ Through the Hearing, amendments have been made to the Structure Plan to reflect some of these requests.
- 12.50 Mr Shields preferred to maintain a degree of specificity for Collector Road A to give certainty for developers as to where it will be located and for it to be as central as possible within the TPLM Site. He acknowledged that altering its location by around 10m would not be critical.³⁸⁶ In his view, retaining specificity avoids people building the collector road where it suits them best and potentially negatively impacting on a neighbouring landowners' ability to develop. This also presents a benefit in terms of knowing where stormwater infrastructure would be located, as disused in Sections 11 and 13.
- 12.51 In light of agreement that the Stalker Road/SH6 intersection should be upgraded to signals, Mr Shields advised that the originally proposed Local Road E should be amended to Collector Road A and should form the northern leg of the intersection.³⁸⁷
- 12.52 In terms of the Glenpanel site connecting to the Howards Drive/SH6 intersection, Mr Bartlett presented to the Hearing Panel on a previous resource consent that allows for a new road connection to SH6 to the west of Howards Drive. This connection is not shown on the Structure Plan.³⁸⁸ The consent is for a café and art gallery only.³⁸⁹ Mr Smith was of the opinion that if subsequent permission for this access road to serve residential development could be gained from Waka Kotahi, and if the Howards Drive/SH6 intersection was upgraded to signals, then its inclusion in a 60km/hr speed environment should not be problematic. If the Howards Drive/SH6 intersection were to remain as a roundabout, then Mr Smith considered a left in/left out access could be achievable.³⁹⁰

Parking

- 12.53 Mr Shields supported the imposition of maximum residential parking rates as a tool to encourage mode shift away from cars. He advised that this forms part of the Transport Strategy for Queenstown.³⁹¹
- 12.54 Submissions³⁹² raising parking effects were received, with the key matters of concern being the restrictiveness of the proposed provisions and also the potential effects of overspill parking.³⁹³ We heard from Ms Austin that she did not support maximum

³⁸⁴Statement of Evidence of Mr Bartlett at [14] – [15], and [17].

³⁸⁵ Including GDL, Maryhill, Sanderson and Ladies Mile Property Syndicate.

³⁸⁶ Mr Shields Verbal Response to Questions 5th December.

³⁸⁷ Response of Colin Shields (Traffic) dated 25 January 2024 at [12].

³⁸⁸ Statement of Evidence of Mr Bartlett at [16].

³⁸⁹ Mr Bartlett Verbal Response to Questions 11th December.

³⁹⁰ Mr Smith Written Response to Questions 18 December as appended to Mr Shields and Mr Smith combined Written Response to Questions 13 December.

³⁹¹ Statement of Evidence of Mr Shields at [34(d)].

³⁹² Nicole Fairweather (21), AA Southern Lakes (56), Koko Ridge Limited (80), Winter Miles Airstream Limited (94), Milstead Trust (108), Gordon Griffin (114) and Martin Barrett (118).

³⁹³ Statement of Evidence of Mr Shields at [145].

residential parking standards due a concern about ‘wild’ parking occurring.³⁹⁴ We also heard from Mr Burnell on this matter:³⁹⁵

You’re going to have at least one car per residence on the north side of Ladies Mile and then all hell will break loose. Where are they going to park? They are going to be parking through Shotover Country and Lake Hayes Estate.

12.55 He further states:

We’re a five-person family with three cars, quite shortly to become four cars, that’s the reality. Turn 16, son number two wants to get a car... I’d probably park down the road if my parks were full, probably 500m.

12.56 In responding to these matters, Mr Shields reiterated his opinion that:³⁹⁶

As detailed in the Transport Strategy, one of the key focus areas is to have restrictive maximum residential car parking standards in order to support the required mode choice at TPLM.

12.57 And that, “[r]esidents will choose to move into TPLM knowing there is restricted car parking”.³⁹⁷

12.58 Mr Parlane presented an alternative view that parking restraint at a trip destination is a far more effective way of supporting mode shift that limiting availability at the trip origin.³⁹⁸

12.59 In response to Mr Parlane, Mr Shields noted that there is significant research into parking management as a mode shift tool that he has relied on in developing the Transport Strategy for TPLM.³⁹⁹ He stated:⁴⁰⁰

I remain of the view that car park maximum rates for the residential uses are required to achieve mode change at TPLM Variation.

12.60 In relation to commercial parking provision, we heard from Ms Hampson in response to questions that having higher parking provision would make development of the supermarket more attractive to operators.⁴⁰¹ Early development of the supermarket and school before any residential development is permitted is a relief sought by a number of submitters.

AHFT

12.61 Messers McKenzie and Bartlett presented evidence in support of the AHFT land being included within the TPLM. In relation to the wider TPLM Transport Strategy, they expressed the opinion that:⁴⁰²

We are concerned that there is neither sufficient certainty nor appropriate resilience within the Variation and its transportation elements, as currently framed.

³⁹⁴ Ms Austin Verbal Presentation 12th December.

³⁹⁵ Mr Burnell Verbal Presentation 11th December.

³⁹⁶ Statement of Evidence of Mr Shields at [146].

³⁹⁷ Statement of Evidence of Mr Shields at [147].

³⁹⁸ Mr Parlane Verbal Response to Questions 12th December.

³⁹⁹ Mr Shields Written Response to Questions 19 December 2023 at [36] [37].

⁴⁰⁰ Mr Shields Written Response to Questions 19 December 2023 at [38].

⁴⁰¹ Ms Hampson Questions from the Hearing Panel 4th December.

⁴⁰² Statement of Evidence of Mr McKenzie and Mr Bartlett at [26].

12.62 And that:⁴⁰³

...the Variation's transport solution is reliant upon the use of SH6 for not only private vehicle transport, but also bus transport. This would create a transport future that will continue to place what is in our opinion, excessive reliance upon the State Highway.

12.63 Messers McKenzie and Bartlett concluded that:⁴⁰⁴

...the preferred outcome is to seek, as much as possible through the Variation provisions, a future transport system that develops a strong supporting local road network alongside the State Highway.

12.64 And that:⁴⁰⁵

...addition of the Extension Area into the Variation will add the appropriate resilience to achieve the Transport Strategy outcomes through the opportunity to reduce reliance upon the SH6 corridor via development of an enhanced local road network.

12.65 Messers McKenzie and Barlett advised that the inclusion of the AHFT land provides a significant opportunity to enhance walking and cycling networks, provides impetus for a local road bus network and interchange at the west end of TPLM and allows for an alternative realignment of Lower Shotover Road as a connection to Lower Shotover and Speargrass Flat.⁴⁰⁶ They considered that the inclusion of local bus services and the potential development of a bus hub at the western end of TPLM in addition to an express service along SH6 would:⁴⁰⁷

...positively contribute to greater catchment areas and accessibility to bus services...the higher frequency services along SH6 accessing a bus interchange at this western end of the Variation Zone would support adoption of a greater walking catchment of potentially up to 800m...

12.66 Mr McKenzie also supports the development of a small commercial centre at the western end of TPLM.⁴⁰⁸

12.67 Mr Shields does not support the inclusion of the AHFT land into the Variation. He is of the opinion that the distance from the AHFT land to the commercial centre is prohibitive of walking trips being made and that the walking distance of 900m to 1.4km to the bus stops on SH6 are also not acceptable.⁴⁰⁹ He also noted that:⁴¹⁰

...should the Panel be minded to include the AHFT land within the TPLM Variation, I remain of the view that access to this land can be provided without any change required to the TPLM Variation Structure Plan...

⁴⁰³ Statement of Evidence of Mr McKenzie and Mr Bartlett at [30].

⁴⁰⁴ Statement of Evidence of Mr McKenzie and Mr Bartlett at [31].

⁴⁰⁵ Statement of Evidence of Mr McKenzie and Mr Bartlett at [26].

⁴⁰⁶ Statement of Evidence of Mr McKenzie and Mr Bartlett at [45] – [56] and TPLM Structure Plan Response to Questions 15th December.

⁴⁰⁷ Statement of Evidence of Mr McKenzie and Mr Bartlett at [54].

⁴⁰⁸ Summary statement of Mr McKenzie at [10].

⁴⁰⁹ Mr Shields Written Response to Questions 5th and 6th December at [25] and [26].

⁴¹⁰ Response of Colin Shields (Traffic) dated 25 January 2024 at [30].

Discussion

12.68 We acknowledge the large number of submissions from the local community, interested landowners, and government agencies and the extensive technical information presented to us in relation to traffic and transportation matters. Our consideration of the information before us for each broad topic area is as follows:

Traffic Modelling

12.69 We are satisfied that the Queenstown - Lakes TRACKS Transportation Model and associated Otago Regional Council Public Transport Model are the most appropriate tools to assess the effects of TPLM and that the fit of the model in the area is good. We are also satisfied that the SIDRA modelling of individual intersections have been carried out appropriately and that we have been presented with an appropriate and reasonable technical evidence base, outlining existing and expected future road network operations, on which to base our recommendations.

12.70 Mr Shields identified a threshold of some 2,400 households that could be developed without adversely affecting road network conditions, subject to achieving the aspirational mode shift of 57%,⁴¹¹ this being generally aligned with the mode shift targets identified in a range of other strategies for Queenstown.⁴¹²

12.71 Part of this strategy is also to restrict residential parking provision on the assumption that reduced car ownership enforced through limited parking availability must consequently lead to reduced car use. But we question this position given the strength of support from both Mr Shields and Mr Pickard in relation to the public transport infrastructure and services that would support development in TPLM. In addition, the evidence from Mr Pickard in relation to how mode shift would be supported by a wide range of initiatives and projects brings into question over reliance on any one plank of the wider travel demand management platform.

12.72 Based on the evidence before us, ensuring rapid and frequent bus services that promote public transport trips over and above travel by car, by avoiding congestion, is one of the most important, if not the most important lever in achieving mode shift. We heard from Mr Parlane that parking control at the destination end of the trip e.g. at the place of employment or education, is more likely to promote public transport mode choice rather than at the origin end of the trip i.e., at home.⁴¹³ We are drawn to conclude that how a shift to active and public transport modes occurs is less important than the fact that it needs to occur for the full extent of TPLM to potentially be developed. Based on Mr Pickard's evidence and response to our questions, we have no reason to expect that high quality public transport services will not be provided. Therefore, on the strength of the evidence before us, and the ITA requirements disused in Section 13, we are satisfied that the upper threshold of 2,400 households within TPLM is still applicable.

12.73 However, we have also heard considerable evidence relating to the housing market and residential density as set out in detail elsewhere in this report, leading to the experts

⁴¹¹ Mr Shields Summary of Evidence at [5].

⁴¹² Statement of Evidence of Mr Shields at [30] [31].

⁴¹³ Mr Parlane Verbal Response to Questions 12th December.

agreeing that the likely number of houses that would be delivered by TPLM would be less than 2,400. This gives us additional comfort in reaching our conclusion.

- 12.74 In terms of whether the development of the AHFT land would result in adverse traffic effects, given the overall yield of TPLM is likely to be less than originally anticipated by the traffic modelling, the addition of AHFT is unlikely to exceed 2,400 households. As such, we are satisfied that the network wide traffic effects of AHFT land has been assessed by default.
- 12.75 Notwithstanding the above, we also note that the traffic modelling considered 1,100 households as the baseline.⁴¹⁴ There was considerable discussion throughout the Hearing in relation to the importance of the opportunity the development of a high school in particular has to reduce existing peak hour traffic on the road network.⁴¹⁵ We accept that the schools and commercial zone would be unlikely to create new trips along SH6 but would conversely encourage trips across SH6 from Shotover Country and Lake Hayes Estate and remove trips that are currently made along SH6 (and especially over the Shotover bridge). This has the effect of allowing existing trips for these purposes made along SH6 to facilities to the west of the Shotover Bridge to be ‘repurposed’ for new TPLM related trips. We are therefore satisfied that a baseline of 1,100 households can be developed within TPLM Site but consider that development above this level should have an assessment requirement if a high school is not operational to the west of the Shotover bridge. If development above 1,100 households occurs before a high school is operational we consider that a restricted discretionary activity status should apply (Rule 49.4.4A). This provision reflects the evidence we heard, is effective and efficient and is the most appropriate way to achieve the objective.

SH6 Corridor

- 12.76 We accept the expert evidence in relation to the suitability of altering the SH6 to reflect its future urban nature. This includes reducing the speed limit to 60km/hr (we recognise Waka Kotahi is responsible for that, but we support the 60km/hr limit), reducing the width of the AAA (now a BRA) and associated building setbacks, and specifying signal controls at Stalker Road and Howards Drive as opposed to the existing and currently planned roundabout intersections. We consider that recognising and designing for this future environment is fundamental to the TPLM Variation.
- 12.77 Noting that no consensus was reached in relation to the setbacks, we turn to Mr Brown’s S42 Report for guidance. He provided a helpful summary of the varied and linked purposes of the AAA⁴¹⁶ and a comparison of the different options put forward by different witnesses.⁴¹⁷ In turn, Mr Brown relied on the expert opinion of Mr Shields and Mr Smith in recommending a 10m AAA (now a BRA) around intersections and for the area fronting the commercial precinct, increasing to 14m for midblock section on the north side of SH6 and 25m on the south side of SH6 in accordance with the BRA.

⁴¹⁴ Statement of Evidence of Mr Shields at [25] and page 10 of the draft memo dated 27 September 2023 appended to it.

⁴¹⁵ As raised in the Statement of Evidence of Mr Shields at [74] and [80].

⁴¹⁶ Reply s42 Hearing Report, at [7.1] – [7.5].

⁴¹⁷ Reply s42 Hearing Report, at [7.10] – [7.11].

- 12.78 Acknowledging that Mr Brown faced the challenging task of balancing competing views, Mr Shields and Mr Smith preferred a 10m separation distance between buildings and the SH6 carriageway in order to create the necessary friction to support an urban road environment.⁴¹⁸ That is the same distance sought by Ladies Mile property Syndicate in its submission.⁴¹⁹ After evaluating the conflicting evidence, we find that reducing the setback as preferred by the traffic engineers is more compelling in achieving the TPLM Zone purpose and in creating a suitable urban corridor. We do not see the necessity of creating a further setback in between intersections, or a further building setback beyond the 10m and 25m highway setbacks we have identified as appropriate. In our view, if the 10m BRA can contain suitable active travel infrastructure and landscaping, and creates an appropriate safe road corridor environment, we do not see the need for added complexity in limiting this 10m corridor width to proximity with intersections and commercial development (i.e. we consider it should be a consistent 10m).
- 12.79 In relation to the south side, Sub Area J (open space) and the Queenstown Country Club frontage form a significant proportion of the southern frontage to SH6. We also note the value placed on the wider views to the Remarkables as discussed by the landscape experts (see Section 9) and the relief sought by QCC themselves. As such we consider that a consistent 25m setback is more appropriate on the southern side of SH6 and see no efficiency or effectiveness in reducing this to 10m at intersections.
- 12.80 We support the proposal to not require a building setback from the property boundary for commercial premises fronting the BRA (including what was previously the AAA) and apply this across the whole BRA. Our amended provisions provide for space within the 10m BRA for appropriate active transport and planting. In our opinion it is inefficient and ineffective, contrary to the transport evidence and contrary to the purpose of the TPLM Zone to require additional setbacks.
- 12.81 We have not been persuaded in relation to the mechanism by which the BRA should be delivered and managed (i.e. be vested as road or reserve, managed through easements or rights of way etc) and consider that this is a matter that can be addressed at the time of land use or subdivision consenting.
- 12.82 As we have considered the provisions, we are requiring the 10m and 25 setbacks on the Structure Plan to be redrawn and recommend a new standard 49.5.0.3 governing the provision and design of the building restriction. This is discussed in Section 13.
- 12.83 In terms of development triggers and thresholds, we received submissions opposing⁴²⁰ the concept and supporting it.⁴²¹ Mr Shields and Mr Smith have given significant thought to the infrastructure triggers. We note their advice is based on the Sub Area naming put forward during the Hearing. Subsequent to that, we prefer to further clarify Sub Areas consequential of considering additional areas of land that did not form part of the original

⁴¹⁸ Reply s42 Hearing Report, at [7.12].

⁴¹⁹ Submitter 77.

⁴²⁰ Caithness Developments Limited (45), Neil McDonald and Clarke Fortune McDonald & Associates (55), GDL (73), Ladies Mile Property Syndicate (77), Ladies Mile Pet Lodge Limited (78), Koko Ridge Limited (80), Sanderson (93), Winter Miles Airstream Limited (94), T Allan (103), Maryhill Limited (105), Milstead Trust (108).

⁴²¹ G Erving (51), Waka Kotahi (104).

TPLM Variation. We recommend adopting the following Sub Area naming changes for clarity:

- (a) Sub Area K1 to refer to the AHFT upper terrace LDR area only;
- (b) Sub Area K3 to refer to the AHFT lower terrace LDR area;
- (c) Sub Area J be split, with Sub Area J1 referring to the Open Space Zone and Sub Area J2 be used to identify the Doolytle land; and
- (d) Sub Area G be split, with Sub Area G1 referring to the easternmost MDR and Sub Area G2 be used to identify the Dobb land.

12.84 We find the following, noting that the planners agreed that the ‘triggers’ should be linked to code of compliance certification, rather than before any development can occur on any site:⁴²²

- (a) We prefer the logic of Mr Smith in relation to all development other than for Sub Areas H1, H2 (for more than 108 lots) and Sub Area I which are low density residential, requiring the NZUP bus priority package west of Shotover Bridge (eastbound bus lane between SH6A and Hawthorne Drive and westbound bus lane between Hardware Lane and SH6A) and the Stalker Road bus priority measures to be in place,⁴²³ along with Mr Shields recommendation that this should include the AHFT land Sub Area K1 (and now K3) and K2 and the Koko Ridge land identified as Sub Area H2 if more than 108 dwellings are developed.⁴²⁴ Mr Shields advice in relation to Sub Area K1 (and now K3) being predicated on the NZUP package, is not consistent with the advice for other areas of low density residential development. Despite that, we consider this addition appropriate given the entirely new nature of any development within AHFT land compared to other low-density areas of TPLM which already have resource consent for residential development in place. Overall, we consider that this acknowledges the significance of bus travel and associated infrastructure in achieving the mode shift targets identified by Mr Shields as mitigating the traffic effects of TPLM Variation.
- (b) Similarly, we prefer Mr Smith’s evidence in relation to the provision of the westbound SH6 bus lane between Howards Drive and Shotover Bridge⁴²⁵ We agree with Mr Shields addition to the triggers of Sub Areas A, J1 (as we have changed it), H2 (for more than 108 lots) requiring this infrastructure to be in place before development can occur.⁴²⁶ Whilst Sub Area J1 is Open Space Zone, we consider that that it is appropriate to make it subject to the same general public transport infrastructure triggers that all other development is subject to, on the basis that significant sports facilities that attract large numbers of trips could be developed here, resulting in traffic effects that would not otherwise be mitigated. We agree with Mr Smith that Sub-Areas F and G1 (as we have changed it) should

⁴²² Planning JWS 3rd November at page 3.

⁴²³ Mr Smith Summary Evidence Table 2.

⁴²⁴ Response of Colin Shields (Traffic) dated 25 January 2024 at [27] and [31].

⁴²⁵ Mr Smith Summary Evidence Table 2.

⁴²⁶ Response of Colin Shields (Traffic) dated 25 January 2024 at [17].

be subject to this provision as a continuous bus lane along SH6 will be an important feature of driving bus mode share in these areas. We do not see how this can be achieved by requiring the westbound bus lane from the Eastern Roundabout to Howards Drive alone. We acknowledge that Sub Area J1 has significant frontage to SH6 to the east of Howards Drive, however, we anticipate that access to any sporting facilities would be from Howards Drive as direct property access to SH6 is not envisaged in any part of the TPLM Variation. As such, development within Sub Area J1 would not be dependent on, or have any need for, the westbound bus lane from the Eastern Roundabout to Howards Drive.

- (c) In relation to the Stalker Road intersection, whilst we acknowledge the logic of Mr Smith's opinion, we must also consider the appropriateness of stopping all development from occurring until this upgrade has occurred, when there is no known timeframe for delivery or currently committed funding. We consider that this would have the effect of unduly sterilizing the TPLM Site for development purposes, which does not meet the need for the purpose of the TPLM Variation. We also consider that given the evidence in relation to mode share and the general advice from the transport experts that TPLM Variation is supportable from a transportation perspective with the relevant bus infrastructure and high frequency bus services in place, the prerequisite for bus lanes on SH6 provides enough supporting infrastructure to allow development to occur within Sub Areas C, D, E, F, G1 and J1 (as we have now changed it), without depending on the Stalker Road infrastructure upgrade.
- (d) We apply the same thought process to the provision of bus stops in SH6, the need for a pedestrian crossing on SH6, and associated active travel links to them and accept Mr Shields' evidence in this regard.⁴²⁷ We do, however, support the requirement for the Stalker Road intersection upgrade and associated at-grade pedestrian and cycle crossings to be in place prior to development in Sub Area H2 above 108 lots on the basis that this is more akin to MDR such as is proposed in Sub Areas A and B adjacent to this intersection. We consider that Sub Areas A, B and H2 (if more than 108 lots are created) are all dependent on the provision of bus stops on SH6 at Stalker Road, an active travel link to those stops and a safe means of crossing SH6 being available. We accept Mr Shields' evidence that development in Sub Areas K1 (and now K3) and K2 depend on this intersection upgrade as these areas can reasonably be expected to gain their primary road access from it.⁴²⁸ We also accept his evidence in relation to Sub Area H2 when there are greater than 108 lots in terms of bus stop provisions on SH6 being enabling infrastructure, and generally the provision of an active travel link to these bus stops to be required for Sub Areas H1 and H2.⁴²⁹ We do not consider that bus stops at the Stalker Road intersection are required for Sub

⁴²⁷ Response of Colin Shields (Traffic) dated 25 January 2024 at [22] and [23].

⁴²⁸ Response of Colin Shields (Traffic) dated 25 January 2024 at [31].

⁴²⁹ Response of Colin Shields (Traffic) dated 25 January 2024 at [27].

Areas H1, H2 (at 108 lots or less) and I. That is low density development to the south of SH6 and delaying it for bus stops is not efficient or effective.

- (e) Similarly, we accept Mr Shields' evidence in relation to the upgrade of the Howards Drive/SH6 intersection and associated bus stops and pedestrian crossings are only required in advance of development within Sub Zones C, D, E and J1 (as amended). We accept that development within Sub Zones F and G1 (as amended) are within reasonable walking or cycling distance of the Howards Drive area and as such, bus stops are not required to support access to the commercial centre or educational facilities.⁴³⁰ We do acknowledge that there may be a short duration where access through TPLM Site or along the SH6 AAA (now BRA) may not be available if Sub Zones F and G1 (as amended) are developed in advance of other areas of the TPLM Site. Given their relatively small scale, we do not consider this to be a significant risk.
- (f) Following the same logic, we also accept Mr Shields' evidence that only Sub Areas A, K1 (and now K3) and K2 are reliant on a new or upgraded intersection between Lower Shotover Road and Spence Road.⁴³¹ The AHFT amendment to the Structure Plan shows a roundabout in this location, however no evidence has been presented by their experts to support this. We therefore consider that the form of this intersection should be assessed and confirmed as part of the first development to occur within Sub Areas K1, K2 or K3.
- (g) In terms of infrastructure required in advance of development in Sub Areas F and G1 (as amended), we accept Mr Shields' evidence in relation to the need for the Eastern Roundabout, westbound bus lane on SH6 between the Eastern Roundabout and Howards Drive, and associated bus stops and pedestrian crossing. We have already discussed our view about the continuation of the westbound bus lane to Shotover Bridge.
- (h) In relation to any other infrastructure projects required in advance of development within Sub Zones K1 (and now K3 too) and K2, we accept the evidence of Mr Shields noting that AHFT volunteered a number of supporting infrastructure provisions.⁴³² We prefer his evidence over the responses from counsel for AHFT⁴³³ which does not consider integration of Sub Zones K1 and K2 into the TPLM Transport Strategy or wider network effects despite this being the premise on which Messers McKenzie and Bartlett promoted acceptance of the AHFT land into the TPLM Variation.
- (i) In relation to the submission by Doolytle and Son Limited and inclusion of their land within TPLM, we consider that it would be appropriate for it to be subject to the same infrastructure provisions as adjacent Sub Area J1 but recognise that it is a different zone with local Shopping Centre zoning being the intended use. We accept that on its own development of this site would be unlikely to create

⁴³⁰ Response of Colin Shields (Traffic) dated 25 January 2024 [25].

⁴³¹ Response of Colin Shields (Traffic) dated 25 January 2024 at [21] and [31].

⁴³² Response of Colin Shields (Traffic) dated 25 January 2024 at [31].

⁴³³ Memorandum of Counsel for AHFT 18th December.

adverse traffic effects,⁴³⁴ however, we prefer consistency with the remainder of the TPLM Variation. We accept Mr Shields evidence that a sealed footpath is required from site, along Howards Drive to Jones Avenue in the south and SH6 bus stops in the north.⁴³⁵

- (j) In terms of the Dobb site, no evidence has been presented in relation to traffic effects and enabling infrastructure needs. We have therefore taken a pragmatic approach and recommend that it be considered as Sub Area G2 and be subject to the same requirements as Sub Area G1. This is on the basis that the ability to develop within the Dobb site is dependent the design and delivery of the eastern roundabout and development in advance of this would not be prudent.
- (k) We do not consider enabling infrastructure is necessary for Sub Area I given its scale, LDR nature and the fact that this land is already subject of a resource consent.

12.85 Notwithstanding the above, Mr Shields supported excluding supermarket activities within Sub Zone D from the pre-development triggers. We accept this evidence. Although it has not been presented to us as an option, we consider that that a similar approach to primary and high schools could apply given their potential to reduce trips across Shotover Bridge not only for TPLM but also for Lake Hayes Estate and Shotover Country residents. This is particularly relevant to the high school given the evidence from Mr Smith and Mr Shields that around 20% of existing westbound morning peak hour trips across Shotover Bridge are to the Frankton Highschool from Lake Hayes Estate and Shotover Country.

Public Transport and Mode Shift

12.86 The mode shift needed to support TPLM is significant and relies on the delivery of physical and travel demand management projects by external parties including Waka Kotahi, the Council and ORC. We consider that appropriate objectives and policies are included in the TPLM provisions to achieve the desired mode shift outcomes though integrated land use and transport planning. We also acknowledge the lack of definitive funding and delivery timeframes for these projects, but also consider that the evidence presented demonstrates support for these future projects. We have already discussed this in more detail above.

12.87 We note that the planning experts considered that SH6 and the future bus services should be considered as an RTS. We also note the split views between the transport experts as discussed in Section 12. We consider that the NPS-UD has implications for the built form in relation to a RTS and, overall, we agree with Mr Shields and Mr Smith that the definition of a RTS as set out in the NPS-UD is not met. We also agree that a housing density of a minimum 40 dwelling per hectare (to be measured on a net basis as set out in Section 13) supported by delivery of schools and local commercial and retail opportunities is needed to support the mode shift aspirations. Further discussion on

⁴³⁴ Response of Colin Shields (Traffic) dated 25 January 2024 at [31].

⁴³⁵ Response of Colin Shields (Traffic) dated 25 January 2024 at [42].

housing densities and the applicability of provisions to support early delivery of these supporting facilities is set out in Section 13.

- 12.88 We understand the concern raised by submitters in relation to the potentially adverse effects on SH6 if mode shift does not occur to the degree anticipated. To this end, we agree with the proposal put forward by Mr Shields in relation to Integrated Transportation Assessments and the need to include information on mode share within these. We have also previously discussed the importance of a high school operating to support the TPLM Site (and just as importantly the surrounding neighbourhoods) and indicated that we consider a change in activity status to restricted discretionary if more than 1,100 households are delivered prior to that occurring. We do not consider that a hard limit is required as the ITA process allows consideration of traffic effects in the context of what volume of traffic or degree mode shift has actually arisen rather than on the basis of current expectations.

Internal Roads and Parking

- 12.89 We consider that the proposed road cross sections meet the purpose of the TPLM Transport Strategy and provide opportunities for safe walking and cycling activities, and support public transport access.
- 12.90 In terms of Collector Road A east – west through TPLM, we accept the logic for fixing this key route as a way to give adjacent landowners certainty of future connection points, noting that this degree of specificity may make development for some harder than it will be for others. We consider that allowing for a degree of flexibility for the north-south connecting roads between Collector Road A and SH6 is advisable to ensure that these roads can connect with the relevant intersections along SH6.
- 12.91 We accept Mr Smith's advice in relation to the consented Glenpanel access road, noting that this is for commercial activities only and does not apply to a wider residential development. Any change of use of this consented access would need to be assessed and considered on its own merit through appropriate resource consent pathways.
- 12.92 In relation to commercial parking provisions, we do not consider requiring a supermarket to be developed in advance of any other residential development to be a realistic or supportive outcome for TPLM. We do recognise the potential traffic and congestion reducing benefits of such a development serving not only TPLM but Lake Hayes Estate and Shotover Country. Mr Shields has reviewed his original position and agrees with this proposal.⁴³⁶ We therefore support the increase in maximum parking rates for a supermarket activity.
- 12.93 In relation to residential parking, we have conflicting evidence before us. On one hand we have Mr Shields remaining of the view that constraining residential parking rates is a necessary part of supporting mode shift for TPLM, whilst on the other we have concerns from submitters that doing that will create an overspill effect not only within TPLM but also within Lake Hayes Estate and Shotover Country. We also have an opinion expressed by Mr Parlane that constraining residential parking is far less effective in

⁴³⁶ Mr Shields, questioning from Hearing Panel 5th and 6th December.

engendering mode shift than controlling parking at the destination end of a trip. We also received suggestions from developers that the best way to address this is to let the market decide as there is an embedded cost in providing parking.⁴³⁷

12.94 We do not find the expert evidence for the maximum residential parking rates to be compelling. While we are open to such an approach, to impose such a regime under the RMA, and in compliance with s32, we consider that such evidence was required from the Council.

12.95 Whilst we agree with the underlying principle that TPLM needs to be developed differently and at greater density than is the norm across the District to date, we find the Councils' approach of relying on constraining residential parking to be unworkable and contrary to the principles of sound resource management. We have several key concerns:

- (a) Whilst Mr Shields provided an extensive bibliography of research papers and design guides on parking provision, no analysis as to the applicability of this advice to TPLM was provided. No evidential rebuttal of Mr Parlane's criticisms of the Council's assumptions was ultimately provided, and we find Mr Parlane persuasive.
- (b) There is no evidence that the proposed residential parking maxima align with typical parking demands, noting that whilst public transport and active mode choices may be appropriate for many daily travel needs, they are unlikely to serve or be practicable in every situation. This substantially limits our ability to conclude with any confidence that the loss of private vehicle accessibility by residents will be wholly or mostly substituted by sufficiently comparable passenger and active transport alternatives. The scenario of TPLM residents resulting in a net-loss of accessibility and potential to enable their own wellbeing compared to a status-quo approach to car parking was not included as part of the Council's s32 analysis.
- (c) Whilst we accept Mr Pickard's evidence concerning the delivery of the Way 2 Go partnership Travel Demand projects, services and supporting infrastructure, delivery of these is beyond Council's sole control and we remain uncertain of what timeframe progressively superior levels of bus service (frequency per hour) might eventuate.
- (d) Public parking regulations may limit the number of cars parked on a particular street but it does not control how many may be parked on lot but off driveway or on un-controlled roads as is a concern for many residents of Lakes Hayes Estate and Shotover Country. Although subject to a resource consent requirement, the Council's approach might be undermined by developers instead being incentivised to propose private roads to side-step Council preferences for less on-street parking (but also front yard or garage setbacks).
- (e) The proposed parking maxima, which provides more parking for 3-bedroom dwellings than 1-bedroom dwellings, could have an unintended consequence of

⁴³⁷ Statement of Evidence of Ms Stagg at [77] – [82] and her Verbal Response to Questions 14th December.

encouraging developers to skew their projects in favour of larger dwellings with more bedrooms to maximise their available supply of parking spaces; this could undermine a key principle of the TPLM Variation to deliver housing diversity and more, smaller, affordable dwellings in particular.

- (f) Although TPLM residents would add additional vehicle trips to SH6 and the road network in the peak period, other development in TPLM Zone such as commercial activity, sports fields, or a potential high school (and primary schools) would remove some existing vehicle trips on the network. At least for those new resident trips that could be described as a substitute for an existing trip, we have not been convinced that this should be regarded as an additional net adverse effect on the environment in need of specific avoidance or mitigation.
- (g) The Council's approach did not, in our view, fully factor in what we consider would be a substantial and on-going compliance and monitoring cost. This includes how the Council might prevent people using a driveway in front of a garage to accommodate an additional car park⁴³⁸ (or a public on-street parking bay or reaching after-hours leasing agreements on private land within the commercial precinct). How might the Council monitor and identify the difference between an additional unauthorised vehicle owned by a dwelling occupant on a driveway in front of a garage and one belonging to a visitor or friend that just happened to very frequently visit and stay-overnight? It strikes us that to be effective the monitoring costs would be substantial. We could find no recognition of any such likely administration costs in the s32 analysis.
- (h) Following on from the above, we see it likely that the Council would need to administer the TPLM Zone in a way that effectively banned garages in most cases, or otherwise allowed only one uncovered car parking space on a parking pad accessed from the street. In conjunction with proposed restrictions on on-street parking opportunity, we foresee practical every-day problems with the ability of what might be a high and regular volume of service-type vehicles or visitors from across the District being accommodated (taxis or ubers, couriers, contractors or tradespeople, etc.).

12.96 We have reviewed the PDP, and whilst there are policies that support mode shift and active travel, there are no rules evident in any other zone except the TPLM Variation that specifically seek to limit residential parking in the way proposed.⁴³⁹ The closest the District Plan comes to limiting residential parking is policy 9.2.6.5 which states that:⁴⁴⁰

A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within 800m of a bus stop or the edge of the Town Centre Zone.

⁴³⁸ Proposed rule 49.5.22 requires every garage in the Medium and High Density Residential Precincts to be set back a minimum of 6m from the boundary, and presumably be formed as a driveway suitable for use by a vehicle so to allow access to the garage. But in many cases the driveway itself would then not be usable as an additional parking space (because the garage would count as the permitted space). The proposed rules in summary require a de-facto second on-site car parking space to be provided with every garage, but then not permit use of that.

⁴³⁹ Section 7 Lower Density Suburban Residential, Section 8 Medium Density Residential, Section 9 High Density Residential, Section 22 Rural Residential and Lifestyle, Section 24 Whakatipu Basin, Section 27 Subdivision and Development, Section 29 Transport, Part 6 Special Zones.

⁴⁴⁰ PDP Section 9 High Density Residential.

- 12.97 But policy 12.95 speaks to the possibility of removing or relaxing an existing requirement. This is the opposite of the Council’s proposal being to create or add a new restriction where one did not otherwise pre-exist within the planning framework. Policy 9.2.6.5 therefore could not be seen as supporting the Council’s approach.
- 12.98 Mr Pickard gave evidence in relation to the wider Way to Go Partnership between Waka Kotahi, ORC and the Council to deliver a range of transport infrastructure, service and management projects as part of an integrated package for Queenstown.⁴⁴¹ He notes that a Comprehensive Parking Management Plan is already underway which “contains a District wide parking strategy, which will be implemented through the production of localised parking management plans.”⁴⁴²
- 12.99 He goes on to state that Transport Management Associations may be developed, including community representatives to promote behavioural change, noting that in conjunction with other Way 2 Go initiatives, this will “promote behavioural change across the District, corridor and locally across the highway to the existing developed subdivisions.”⁴⁴³
- 12.100 This clearly sets out an expectation that parking management across the District, in a comprehensive and equitable manner, is intended and sets out a potential approach for achieving this.
- 12.101 Mr Shields also notes that:⁴⁴⁴
- ...QLDC control parking on-street through the Traffic and Parking Bylaw 2018 and this also prevents parking “off a roadway”, and this includes the land considered to be berms. Control within the individual section is more difficult to enforce but I consider that plot sizes are unlikely to provide the room to accommodate more cars than the parking provision.
- 12.102 Given the lack of support through the wider District Plan, we do not see a clear pathway forwards to single out residential parking provisions in TPLM where such controls are not proposed anywhere else in Queenstown. We also consider that should the Council wish to implement residential parking maxima to support a more holistic mode shift, a ‘whole of plan’ approach would be more appropriate. As intimated by Mr Pickard this is already under consideration: “there is an intention to re-visit all aspects of our current parking approach, including revisions to the Subdivision Code of Practice and District Plan if required.”⁴⁴⁵
- 12.103 The evidence presented to us is that public transport infrastructure and the provision of schools, a supermarket and other local commercial facilities will benefit not only TPLM but also the existing communities at Lake Hayes Estate and Shotover Country, where no mandated constraint on residential parking exists. We heard from those same local residents of Lake Hayes Estate and Shotover Country, including Mr Burnell (see **Appendix 8**) and their expectation of unfettered car use to maintain their lifestyles and for a range of activities which in the District require a car (which would also apply to other

⁴⁴¹ Statement of Evidence of Mr Pickard at [10] [12].

⁴⁴² Statement of Evidence of Mr Pickard at [15].

⁴⁴³ Statement of Evidence of Mr Pickard at [17].

⁴⁴⁴ Mr Shields Written Response to Questions 5th and 6th December.

⁴⁴⁵ Statement of Evidence of Mr Pickard at [15].

users of SH6), yet the Council's approach would restrict that outcome for TPLM residents alone in the District. We do not see fairness in that, especially given the attribution of effects when neighbouring communities are considered. Ultimately the key (road) transport infrastructure in question is a public-owned State highway; other local road costs connecting to the highway falling under the control of the Council and would be contributed to equitably via TPLM residents' annual rates. Any constraint on public use of these facilities should in our view be uniformly applied to all users, not just users living in the TPLM Site. This suggests a non-RMA, non-District Plan framework should be investigated further.

- 12.104 We find that enablement of community wellbeing, and the delivery of a well-functioning urban environment, will be best served by providing high-quality passenger transport and cycle-network alternatives that people choose to use for those trips that can be substituted, on the basis that those modes are seen by users as a better option than private vehicle use. Seeking to force people to use a future bus service by removing movement choices, especially when there is no firm agreement regarding what level of service quality is actually likely within any given timeframe, is not in our view consistent with the promotion of sustainable management or the enablement of those persons' wellbeing. It also is not the most efficient and effective method.
- 12.105 Based on the above we find that there is no justifiable basis on the evidence we received to subject dwellings in the TPLM Zone to any greater or lesser car parking limitation than is the case for other dwellings in the District's urban zones. We recommend deletion of the proposed residential car parking limits. We do not accept the proposition that the delivery of high-quality passenger transport outcomes in the District are dependent on the TPLM Zone removing private vehicle choice enjoyed elsewhere, nor that not limiting residential parking could undermine that future passenger transport investment.
- 12.106 Having considered the likely consequences of this outcome, we are satisfied that the framework of transportation upgrades and triggers we have identified will allow the Council to manage the transport network appropriately.
- 12.107 We are, however, in agreement with the appropriateness and suitability of the urban form outcomes in favour of pedestrian and cyclist amenity, and the visual, well-landscaped quality of streets, that the Council's proposed residential car parking limits would have otherwise supported. We therefore recommend consequential additional, specific and more explicit residential car-parking related design requirements to the TPLM zone that would limit the extent of car parking, garaging, manoeuvring space, and vehicle crossings along streets or public use accessways so as to maintain high-amenity, pedestrian-focused streets (as set out in Section 13).
- 12.108 We also identified when undertaking our detailed deliberations that the above approach would also be compatible with the issue of waste servicing and collection so as to avoid the dominance of bins associated with narrow-width housing. A rear service lane with waste storage and collection away from the public eye would be considerably superior to the alternative. We do not consider that the information before us would support creation of a definitive rule to manage this matter. However, a matter of resource consent

assessment for dwellings proposed with a narrow frontage width is appropriate and we have also recommended this in Section 13. In summary this matter will ensure that the question of where and how waste will be stored and collected, and the adverse effects of this on the quality and amenity of front yards and streets or private ways that provide the function of streets, can be addressed in a practical manner.

12.109 Consequentially, we have also recommended (see Section 13) that the provisions governing private ways be relaxed in the case of rear service lanes, on the basis that these should be encouraged to support and reinforce high-quality, pedestrian-priority street frontages clear of parking spaces, vehicle crossings and reverse manoeuvres.

AHFT

12.110 We note the assertion of Messers McKenzie and Barlett that the TPLM transport strategy is weakened if the AHFT land is not included within the Variation.

12.111 In terms of access to public transport and the provision of a local centre and public transport hub at the western end to TPLM, putting aside wider considerations, we note that such facilities could be possible within TPLM subject to appropriate zone provisions and are not dependent on being within AHFT land. Messers McKenzie and Bartlett prefer the Waka Kotahi guidance that 800m is a suitable walking distance to public transport stops for a 15-minute frequency or greater, and that a 1.2km walk is acceptable to a Rapid Transit Hub.⁴⁴⁶ We also note that based on the AHFT final Structure Plan layout, whilst transit corridors are included, acknowledges the primary transit nodes as being on SH6. Based on this, around half of the AHFT land is within the 800m catchment, suggesting that the consideration of SH6 as a Rapid Transit Corridor is fundamental to considering the entire AHFT site as being within a reasonable i.e. 1.2km walk, of public transport services. We have found above that the potential bus system is not an RTS.

12.112 In terms of acceptability of this walking distance and whether it impacts on the overall mode share outcome required to support TPLM, we note from Mr Weir's evidence⁴⁴⁷ that public transport mode share decreases with walking distance to a bus stop. At 400m, there is a greater than 70% chance people choose a different transport mode, whilst at 800m, it reduces to 50%. The majority of Sub Area K2 would fall within the 800m catchment and could reasonably be expected to contribute to the target mode share, with Sub Areas K1 and K3 only having around 50% coverage within this catchment. However, those areas are Low Density Residential so the number of households in total that would have a lower bus mode share than the potential mode shares for the rest of the TPLM Variation is low and we do not consider will be detrimental to the overall mode share outcomes (especially given the proposed nearby local shopping centre and potential Catholic primary school (plus the other schools). Further, during the Hearing we discussed cycling times as opposed to walking, and the use of ebikes as well, in significantly reducing journey times. Given the active transport links proposed there will

⁴⁴⁶ Statement of Evidence of Messers McKenzie and Bartlett EIC at [54] and footnote 16.

⁴⁴⁷ Statement of Evidence of Mr Weir at [37].

be significant opportunity for cycle travel to bus stops (as well as within (and connecting to routes beyond) the TPLM Site).

- 12.113 AHFT seeks a variation to the Structure Plan road layout to move the east-west Collector Road A to the south the create a new roundabout intersection with the north/ south Collector Road A that connects directly to the Stalker Road/ SH6 future signalised intersection.⁴⁴⁸ From Messers McKenzie and Bartlett,⁴⁴⁹ we understand that this is on the basis of it providing a better overall solution for accessing Lower Shotover Road, Spence Road and the wider Wakatipu Basin. We acknowledge that this would also provide walking and cycling access to SH6 and the wider TPLM, as well as via the Memorial Gardens as noted on the AHFT Structure Plan.⁴⁵⁰ We do not consider the latter to be appropriate.
- 12.114 We are not convinced by the argument put forward by Messers McKenzie and Bartlett that the AHFT land supports a better TPLM transport outcome, or that the TPLM roading network needs to be amended to enable linkage with AHFT. We consider that a local-road based bus service can be readily developed within TPLM between via Collector Road A as per the Council's Structure Plan. Similarly, whilst the AHFT may offer an opportunity for a direct walking and cycling link to the old Shotover Bridge, providing this does not appear to us to be dependent on the AHFT land, and we consider is more readily provided along Spence Road as is already included for in the Council's Wakatipu Basin Active Travel network.⁴⁵¹ We also consider that the provision of walking and cycling connectivity to SH6 bus stops or to a local commercial centre is not dependent on the proposed revision to the road layout as local roads will provide ample opportunity for more direct connections to be made.
- 12.115 We therefore agree with Mr Shields that there does not appear to be any compelling reason to amend the TPLM Structure Plan as preferred by Messers McKenzie and Bartlett.
- 12.116 We also agree with Mr Shields that there is no need from a transportation perspective to include the AHFT land within TPLM Variation.⁴⁵² However, we also do not see any compelling transportation reason to not include it. On balance, we are satisfied that the TPLM Transport Strategy can be adopted across the AHFT land, and that appropriate levels of walking, cycling and public transport access can be achieved. We also find that the inclusion of a local commercial centre would support walking and cycling access to day-to-day goods and services and that this would be a beneficial outcome overall. This is addressed further in Section 13.

⁴⁴⁸ Provided with the Memorandum of Counsel dated 18 December 2023.

⁴⁴⁹ Statement of Evidence of Messers McKenzie Mr Bartlett at [46]-[48] and [50]-[51].

⁴⁵⁰ Provided with the Memorandum of Counsel dated 18 December 2023.

⁴⁵¹ Ms Austin's presentation during the Hearing.

⁴⁵² Mr Shields verbal response to questions 5th December.

Transport provisions within the TPLM Variation

12.117 For the reasons set out above we largely support the amendments to the transport provisions as proposed in the Reply s42A Report. We also accept Mr Brown's s32AA assessment in relation to those. We have however, in line with our findings above, made several changes to the transport provisions. Most importantly these relate to:

- (a) the parking provisions;
- (b) the AAA (now BRA) setback distances;
- (c) the provision of transport infrastructure works before development is completed; and
- (d) a restricted discretionary (**RD**) activity status for dwellings over 1,100 prior to the operation of a high school.

These, and other changes, are addressed in Section 13 below.

12.118 We consider that the changes we recommend are more efficient and effective than those proposed, are the most appropriate to achieve the objectives and will deliver the purpose of the TPLM Zone.

12.119 We generally support the transport elements of the revised Structure Plan but note that the Collector Road A heading north from the Stalker Road intersection should be shown extending to the existing road reserve. The current version of the plan shows the AAA traversing across the north side of SH6 between Stalker Road and Collector Type A. We also require the eastern roundabout to be labelled so it is clear in the transport infrastructure tables what location is being referred to.

Findings and recommendation

12.120 For the reasons set out above, and further discussion as relevant in Sections 9 and 13, we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address transport issues. We have retained (and amended) some key measures such as the transport works requirements) and recommended several changes (such as to parking) to deliver what we consider to be an efficient and effective outcome with provisions that are the most appropriate to achieve the objectives.

12.121 We therefore accept the submissions referred to in this section (and as relevant Sections 13 and 14) insofar as they align with the provisions as we recommend and reject them to the extent they differ.

13. THE TPLM VARIATION ITSELF

13.1 Many submissions requested specific relief in the form of amendments to the proposed TPLM provisions, which we have identified as being central to the purpose and overall outcomes to be enabled in the new zone. We also asked numerous related questions of the Council through the Hearing. All were variously responded to in the Council's reply version of the TPLM provisions.

- 13.2 We refer to the preceding sections of our recommendations where discussion of individual subject topics and evidence presented to the Hearing has been set out and explained. In this section we focus specifically on the matters that relate to the District plan provisions we have identified as most appropriate in relation to s32 of the RMA.
- 13.3 We recognise that although the Council commenced the TPLM variation from a well-articulated and well-developed starting point (its Masterplan), across the Hearings process we observed what we saw as significant effort to reflect on submitters' points of view and find a middle ground where possible. This resulted in substantial movement in the Council's position on several matters. We also recognise the general willingness of the Council's personnel and consultants to constructively take on board other ideas and preferences.
- 13.4 As a result of this we are in substantial agreement with Mr Brown's Reply s42A Report and its appended proposed TPLM District plan provisions including the supporting evidence and s32AA analysis provided by the Council. Except as otherwise detailed below and in our **Appendix 1**, we have adopted Mr Brown's reply-version.
- 13.5 Key matters (in no particular order of significance) are set out below. For each, noting that the bulk of our reasoning and evaluation has been generally set out in other sections of the report, we will summarise the changes to the plan provisions that we recommend:
- (a) Zone purpose
 - (b) Zone objectives and policies
 - (c) Structure Plan and Zoning Plan
 - (d) Density requirements and provisions
 - (e) Development triggers
 - (f) Development setbacks
 - (g) Commercial zone(s)
 - (h) Visitor accommodation and residential visitor accommodation
 - (i) Historic heritage
 - (j) Other matters

Zone purpose

- 13.6 The TPLM Zone includes a variety of precincts including for public open space / recreation and lower density suburban housing. Reflecting this, the TPLM Zone purpose (as set out at 49.1) refers to a multitude of outcomes in a general way.
- 13.7 Having read the background material, s32 evaluation, submissions and statements of evidence, we find that the zone purpose as stated does not well-encapsulate what the Council explained to us as its "aspirational" intent. When we read the Council reply version of the zone purpose in isolation and compared it to what we see in many existing parts of the District, we could not always tell from the statement what it was about the

TPLM that was fundamentally different from those, or why that zone purpose could not also be said to almost if not equally apply to some of those other areas.

- 13.8 We recommend changes to this introductory aspect to the zone as follows:
- 13.9 Remove the introductory sentence referring to the Spatial Plan and Te Pūtahi Ladies Mile Masterplan; this being a statement of background work and the starting point of the re-zoning process only.
- 13.10 Provide more direct statements of the overall built form outcomes on the southern and northern sides of State Highway 6, respectively. This includes that, based on the evidence we heard, the overriding resource management issue being addressed by the TPLM Zone is to help respond to the District's housing supply (in relation to different typologies), and severe housing affordability, problem including by way of both maximising supply and managing the type of housing delivered.
- 13.11 Simplify and remove repetition from the text, and other consequential changes to align the description with the conclusions we have arrived at (including the inclusion of the AHFT land).
- 13.12 Add reference to two small areas of Local Shopping Centre zone that we recommend be added to the Structure Plan.

Zone objectives and policies

- 13.13 Turning to the proposed objectives and policies, we recommend changes summarised as follows to align them with the outcomes we support:
- (a) Objective 49.2.1 and supporting policy: Clarifying that development is to integrate with adjoining zoning as well as urban development.
 - (b) Objective 49.2.2 and supporting policies:
 - (i) Clarifying that the housing choice being sought is non-suburban, except in the Low Density Residential (**LDR**) Precinct, on the basis that this is already a well-represented type of housing choice in the District and the evidence we heard consistently identified this as not being likely to contribute to either the efficient use of the land, housing affordability or the Minister's expectations.
 - (ii) Clarifying the inclusion of the Extension Area.
 - (iii) Clarifying that when resource consent applications are made in the Medium and High Density Residential Precincts on the basis of not complying with the relevant development standards, that the efficient use of the land to provide maximum housing density, choice and affordability shall be the highest priority consideration, followed (in specified order) by environmental and ecological outcomes, and then high-amenity outcomes within the zone itself.
 - (c) Objectives 49.2.3 and 49.2.4 and supporting policies:

- (i) Clarifying that to help promote the maximum focal point role and accompanying social and economic exchange within the Commercial Precinct, as well as to help promote activity within it as soon and early as possible, that one supermarket (not restricted to any size) and one service station are to be enabled.
 - (ii) Clarify that in addition to not undermining the function, amenity or role of other relevant centres (which we find to be Frankton and Queenstown), development within the Commercial Precinct must also contribute appropriately to the intended outcomes for the Commercial Precinct itself.
 - (iii) Remove reference to measuring height in “storeys”, which we find unnecessarily complicates and duplicates the stated height maximums expressed in metres.
 - (iv) Amend policy 49.2.4.2A to focus more singularly on the maintenance of heritage and related character attributes associated with the Glenpanel homestead and gardens.
- (d) Objective 49.2.5 and supporting policies:
- (i) Amend Policy 49.2.5.1 to refer to potential significant adverse effects.
 - (ii) Amend policy 49.2.5.4 to accommodate the two areas of Local Shopping Centre zone we have found to be most appropriate within the TPLM Zone, and to make reference that these are to also contribute appropriately to the implementation of the TPLM Structure Plan.
- (e) Objective 49.2.6 and its supporting policies:
- (i) Adding to policy 49.2.6.1(a) a development trigger related to a requirement for a high school within the zone.
 - (ii) Simplifying the provisions and removing repetition (specifically policy 49.2.6.4(d), which substantially duplicates 49.2.6.4(a)).
 - (iii) Removing reference to residential car parking maximum rates and changing an emphasis on “limiting” on-street parking to “managing it”, which as is discussed in Section 12 (and later in this Section) of the decision we find to be more appropriate.
- (f) Objective 49.2.7 and its supporting policies
- (i) Add reference to the possibility of privately owned roads that might come to be promoted as design alternatives to public roads. Clarify that where a private way is to serve the function of a public street this should be reflected in the quality and amenity provided within and along the sides of such spaces. We recommend this approach on the basis that the rules proposed place emphasis on street frontages and it would be an unintended and adverse consequence if developers sought to bypass the burdens specifically tied to public road frontages – which we see as

fundamental to the strategy of promoting walking and cycling – by providing private roads as an alternative (which would for instance not normally be subject to a front yard setback or other frontage-based requirements).

- (ii) Removing the words “as appropriate” and “where appropriate”, respectively, from policies 49.2.7.1 and 49.2.7.2, on the basis that we have not been persuaded of any instance where the outcomes sought by the policy would not be appropriate or need an exemption from consideration.
- (iii) Deleting policy 49.2.7.8A on the basis that it substantially duplicates what is sought by policy 49.2.7.8 (as explained in relation to Koko Ridge below).
- (iv) Simplifying and making more direct the outcomes specified in policies 49.2.7.10 and 11.
- (g) Objective 49.2.8 and its supporting policies
 - (i) Realign policy 49.2.8.1 to relate more appropriately to its parent objective by replacing the general term “sustainability” with “environmental efficiencies and performance”.
 - (ii) Delete policy 49.2.8.3 on the basis that we do not support the dual use of “storeys” and “metres” to measure building height, and that we received no evidence to support the principle that additional building height beyond a zone standard could only be acceptable on the basis of unique environmental benefits being offered. As noted previously, we find that the evidence (unambiguously) supports the elevation of housing density, choice and affordability as the greatest resource management priority for the zone, followed then by environmental and ecological effects and benefits.

Structure Plan and Zoning Plan

13.14 Following on from the above, our recommendations lead to required changes to the Structure Plan and the Zoning Plan. These are in summary:

- (a) Extend the Structure Plan and Zoning Plan extent (this includes the UGB as required) to include the AFHT land, the Doolittle land and the Dobb land. These submissions have been found to be on the plan change. The Structure Plan extent should apply to these because the framework within which they have been determined was that of the integrated TPLM zone.
- (b) We are persuaded that the revised AHFT proposal dated 18 December 2023 and provided as part of a written response to questions that were asked at the Hearing is generally appropriate, as augmented by the reply evidence of Mr Dun for the Council dated 18 January 2024 (which we prefer). We acknowledge that the Council remained opposed to the AHFT land being included within the TPLM

Zone, for a variety of reasons, but must accept the evidence of the Council's own witnesses helped demonstrate that the land could be logically and appropriately integrated into the TPLM Zone and this was one factor that led us to support its inclusion. We have however augmented Mr Dun's version⁴⁵³ of the revised AHFT proposal as follows (more detailed explanation is set out in Section 14 below):

- (i) We do not agree with the additional area of High Density Residential Precinct identified in the AHFT proposal; that land should remain Medium Density Residential Precinct and we note that no High Density Residential Precinct (or equivalent) has been identified or raised as relevant in the context of the second Local Shopping Centre zone area we support along Howards Road.
- (ii) The park identified by Mr Dun at the intersection of Collector Road A and the Stalker Road intersection shall, along with all other future parks or open spaces, be identified as being "indicative" (as shown on the reply version Structure Plan).
- (iii) The Local Shopping Centre zone north of State Highway 6 shall be located to adjoin State Highway 6 on the western side of the Stalker Road extension but reconfigured to follow the Stalker Road extension alignment proposed by Mr Dun (and this shall be Sub Area A2 shown on the Structure Plan). Ms Hampson identified a maximum area of zone of 2,000m² net.⁴⁵⁴ We have considered this and concluded that a centre with a maximum gross floor area of 1,500m² is acceptable in this location. Given that the re-zoning will not account for future local roads or other accessways, a 2,000m² (net) zone extent is not a possible solution we can support. We have determined that a 3,500m² zone area would be sufficient noting our imposition of a 1,500m² gross floor area cap. The Zoning Plan Local Shopping Centre zone shall be reduced in extent (on its northern side) to account for this.
- (iv) That no 'Heritage Feature Nodes' be shown on the Structure Plan as included by AHFT.
- (v) That unless agreed with Council the proposed active transport route be removed through the cemetery as shown in the AHFT Structure Plan. We also do not support an active transport route cutting across the escarpment as shown by AHFT in its Structure Plan. We prefer the route shown by Mr Dun using Spence Road but are open to an appropriate route through the Extension Area if that can be agreed. Retain the active transport link running from the Collector Type A road (north of the Stalker Road intersection) to Lower Shotover Road at the southeastern end of the Extension Area as shown on the AHFT Structure Plan.

⁴⁵³ Mr Dun, Response Statement, Figure 1.

⁴⁵⁴ Rebuttal Evidence of Ms Hampson at [67]. In the provisions attached to the memorandum of Council dated 18 December 2023, AHFT sought 2,000m² of retail space.

- (vi) That the potential area for a Catholic primary school is not shown as 'Planned School'.
 - (vii) To avoid doubt we prefer the location of Collector Type A Road and Lower Shotover Road intersection as shown in Mr Dun's Response Statement.
 - (viii) That the eastern roundabout be labelled on the Structure Plan to provide certainty for the transport infrastructure works tables in the rules.
 - (ix) We also refer to the proposed zone provisions, where we have generally accepted the additional rules and provisions proposed by AHFT to manage the additional area of zone.
- (c) Reduce the Structure Plan extent to include only the 25m SH6 BRA setback we recommend on the Queenstown Country Club site. Continue the 25m BRA over the Dobb land and show that in the Zoning Plan and remove the southern 10m BRA areas around the intersections so that it is a uniform 25m. Show a uniform 10m BRA on the north side of SH6.
 - (d) Delete the Amenity Access Area – Wide and Amenity Access Area – Narrow notations.
 - (e) Remove the proposed 'Access B' active transport link from the Koko Ridge land and replace it with 'Access A' as shown in Mr Shield's Response Statement (more detail is provided on this in Section 14).
 - (f) Add an additional Local Shopping Centre zone at the Doolytle site, (as Sub-Area J2), discussed in more detail in Section 14 below.
 - (g) Zone the Dobb land, in its entirety, to PDP Low Density Suburban residential zone and include it as Sub-Area G2. We note that the southern part of the Site has already been developed with a detached dwelling and immediately north of that, at the foot of the natural slope / escarpment, a public easement for pedestrian and cyclist access. The likelihood of redevelopment occurring here that might be out of step with the Lake Hayes Estate area (which shares the same zone) is very and acceptably low. This is discussed further in Section 14 below.
 - (h) Incorporate the Extension Area zones as sought by AHFT in its 15 December 2023 version (revision B), except that the lower terrace beside the Shotover River becomes LDR and the Local Shopping Centre zone is amended as set out above. Include the new area of LDR on the lower terrace as Sub Area K3.
 - (i) We are not persuaded to support any re-zoning or changes to the provisions to provide for the additional commercial activity sought by Winter Miles Airstream Ltd (**WMAL**). The residential precincts provide resource consent opportunities to allow consideration of non-residential activities outside of the identified Commercial Precinct (or additional two areas of Local Shopping Centre zone). In light of what we felt was a lack of clarity on what was sought and the associated

full s32 RMA assessment of that, we find that the resource consent route is the most appropriate outcome.

- (j) Delete references to “storeys” from the Building Heights Plan. The need for this in addition to the use of metres was not persuasive in evidence and is in our view unnecessarily inefficient.
- (k) Delete the various road cross section and planting plans from the Structure Plan. These matters will in all likelihood be the subject to confirmation at the time of subdivision, and we find that to be the most effective and efficient means of addressing the matter. We also heard no evidence to persuade us that along the linear length of the future roads and other spaces, there must be complete adherence to only one design outcome, width, or planting regime.
- (l) We note that we have also identified consequential amendments to the Local Shopping Centre zone provisions so as to integrate those two areas of land within the TPLM Structure Plan area into the management framework of the TPLM zone.

13.15 As a part of the SPP mechanism allowing parties to comment on our draft decision, we request the Council to prepare updated Structure Plan and Zoning Plans in line with our recommendations, and to the extent necessary would accept an initial or preliminary Memorandum of Counsel should the Council be in any doubt as to what changes are to be made.

Density requirements and provisions

13.16 A key plank of the Council’s proposal was a requirement for minimum residential densities to be achieved. This was as a means of ensuring the efficient use of land and to direct development towards the types of housing seen by the Council as being of greatest importance. Several submissions⁴⁵⁵ opposed the minimums sought by the Council, particularly in the proposed high density residential precinct. We received substantial evidence on this matter, both for and against minimum requirements generally and the Council’s proposed parameters specifically. Several submitters also supported the density minima.⁴⁵⁶

13.17 By the time of the Council’s reply it had softened its position somewhat but still sought to require minimum densities in the high-density residential precinct higher than what had been generally accepted as likely to be achievable today. Its key expert was Ms Fairgray and we refer to her Response Statement.⁴⁵⁷ It was common ground that the intended minimum densities may not be achievable at all within a reasonably foreseeable timeframe. In recognition of this, the Council’s approach was to contemplate lower densities in that precinct in the short term, tied to a resource consent mechanism whereby landowners would commit to higher densities on balance land within the precinct in the future (devised by Mr. Brown). We understood that in turn such land

⁴⁵⁵ GDL (73), Ladies Mile Property Syndicate (77), Sanderson (93), Winter Miles Airstream Limited (94), Maryhill Limited (105), Anna Hutchinson Family Trust (107) and Milstead Trust (108).

⁴⁵⁶ G Erving (51), No. 1 Hansen Road Limited (85) and Kāinga Ora (136).

⁴⁵⁷ Dated 26 January 2024.

would be required to remain undeveloped until (and if) such time as either the market supported that density, or some future plan change amended the planning goalpost.

13.18 We do not consider that the Council's approach is appropriate and because of our ongoing uncertainty that the (maximum) minimum densities sought will ever be achievable in the zone, we can only conclude that the methods will not be effective in implementing the proposed objectives and policies. We are also concerned at what we found to be inconsistencies in the Council's fundamental approach:

- (a) We take the view that the RMA is agnostic as to whether or not the imposition of rules and limitations on landowners is a good or a bad thing; the question is always what is the most appropriate response to the resource management issue being examined (where there is a range of options that are suitable, impose the least restrictive one). But in a general sense, and to retain a proportionality and reasonableness, as the severity of the regulatory burden being contemplated increases so too should the severity of the corresponding issue being addressed (and the robustness of the evidence in support).
- (b) A key consideration of the s32 and s32AA analyses required by the RMA relates to the effectiveness and efficiency of a proposed method. We see it as highly unlikely that any method seeking to require an outcome which might not be reasonably achievable, or deliverable, could possibly be found to be either effective or efficient.
- (c) We are nonetheless entirely open-minded to the imposition of (defendable) minimum residential densities particularly where it would be the most appropriate response to the District's housing issues. The rule in question would have the effect of re-zoning land (and potentially substantially increasing annual Council rates and other costs to landowners), but then prevent development of at least some of that land – possibly indefinitely. Our expectation was to see a comprehensive and compelling justification framed around demonstrating the imposition to be essential to addressing the Variation's resource management purpose.
- (d) When we examined the proposed Structure Plan and Zone Plan, there were many clear examples of where the Council had purposefully sought to prevent or limit development density including on the south side of SH6, along zone edges, and in the southern part of the zone north of SH6 where building height is proposed to be limited. The rationale for those reductions in potential density revolved around assessed amenity value preferences, an alleged gateway experience to Queenstown, and a desire to suppress development intensity to prioritise views of landscape features from the Ladies Mile section of SH6. No analysis was given to us explaining why those density limiters were each so essential in implementing the TPLM Zone objectives and policies that they outweighed the need for housing density that might have been otherwise achievable, and which in turn directly contributed to the pressure for higher

densities beyond what the market can currently support on some residual parts of the zone.

- (e) It is clear to us that there are alternative ways the efficiency of the TPLM Zone as a whole, and its contribution to Queenstown's housing issues, could have been maximised that did not involve such a severe burden being placed on some of the TPLM Zone's landowners. Although those might not have the purity-of-principle of the Council's preference looking through a non-RMA lens such as the Council's Masterplan exercise, when approached solely through the lens of the RMA and the s32 process - as we have done, their underlying deliverability gives them a significant 'leg up' against the Council's preference. The outcome we have arrived at for the TPLM Zone represents what we find to be the most appropriate alternative package of resource management methods.
 - (f) For completeness, we record that had we been persuaded that there was a reasonable argument to withhold some land from development for the foreseeable future on the basis that it was essential in resource management terms for it to only be used to achieve housing densities that cannot be reasonably delivered today (and if this outweighed the inefficiencies and costs of leaving it undeveloped in the interim), we would have recommended an alternative Precinct and land use framework within the Zone that could logically ring-fence such land and leave it at its current zoning at this time.
- 13.19 We considered whether to simply make the medium density residential precinct part of an expanded and more enabling high density residential precinct but found in light of the evidence that did not support many (if any) genuine high-density outcomes likely eventuating anyway that this would be less effective (but equally efficient) to focusing the opportunity for high density residential development at the commercial precinct. In this latter respect we agreed with the views expressed by Ms Fairgray in her Response Evidence.
- 13.20 A minimum density of 40 dwellings per hectare (net) would be substantially higher than almost all existing urban residential developments in the District today, and in terms of a whole neighbourhood nothing we saw in the District is currently comparable to that. It will be an ambitious, efficient, but more to the point, achievable, target that could provide affordable family housing urgently needed in Queenstown. We have been persuaded that it is the most appropriate minimum target for the TPLM Zone.
- 13.21 We do not consider it necessary to provide high density residential precinct 'pockets' adjacent to the two additional Local Shopping Centre zones we have separately identified as appropriate; these are each incapable of accommodating the scale and variety of activity similar to the principal commercial precinct and it is the overall magnitude of activity in the commercial precinct that we find justifies the high-density residential precinct opportunity.
- 13.22 However, despite us recommending to notionally reduce the theoretical maximum yield of the zone by reducing the high density residential precinct minimum density requirement from 50 dwellings per hectare to 40 dwellings per hectare, we note that

providing additional housing opportunity on the AFHT and Koko Ridge land as we have found to be an appropriate part of the TPLM Zone will off-set to a degree any potential 'lost' yield from the TPLM Zone in any event.

- 13.23 In addition, on the south-side of SH6, we have reviewed the existing state of development on the land subject to the TPLM Variation with a view to maximising enabled residential density so as to better contribute to the Precinct's purpose. Based on that, the only workable option we have identified is on the Koko Ridge land, and after discussing its plans with the submitter, it proposed a method that would provide the opportunity for part of the land to enjoy a higher density outcome. As set out in Section 14 we have reviewed this and agree that it is the most appropriate outcome in the context of the TPLM objectives and policies, and the limited remaining opportunities that exist south of SH6 to contribute to Queenstown's housing supply.
- 13.24 We do otherwise agree that an important outcome for the TPLM Zone should be a very different type of built form than has been the residential norm to date in the District. It is typified by an urban rather than a suburban character, with a much greater likelihood of non-private-vehicle trips for many daily-need activities occurring because of the greater density (people in one location) and mix (things to do) sought within the TPLM Zone. To that end, we find that promotion of maximum achievable densities and built form quality should be the focus of resource consent assessments, not rule compliance for its own sake or the (unrealistic) principle that in what will become one of the most urban-character parts of the District a ruralness or visual nostalgia to the past can or should be realistically sought. We have reviewed and made minor revisions to the proposed consent assessment framework to make this clear.
- 13.25 We recommend that:
- (a) a minimum density requirement in the medium and high-density residential precincts of 40 dwellings per hectare (net) should be required.
 - (b) Resource consents for development that infringe the development standards in the residential precincts are to be assessed by giving prioritisation to the following in the order stated:
 - (i) Maximising housing density, (non suburban) choice and affordability within the zone; and then
 - (ii) Whether the infringement(s) allow for a higher standard of ecological sustainability and storm water management than the minimum requirements of the zone would otherwise provide; and then
 - (iii) Achieving very high amenity and very high visual quality public space outcomes along streets, open spaces, and private ways that serve the function of a street; and then
 - (iv) The other relevant matters stated within the Plan.

Development triggers

- 13.26 We agree with the principle advanced by the Council that key infrastructure upgrades should be in place prior to development occurring. We refer to our more in-depth discussion in Section 12.
- 13.27 In summary, the key upgrades that we recommend be required to be implemented before development can occur are set out at rules 49.5.10, 49.5.33, 49.5.50, 49.5.56, and 15.4.18 (relating to the two Local Shopping Centre zone areas). The Council's approach is based on the occupation of buildings and the issue of Code Compliance Certificates under the Building Act 2004 (**Building Act**), and the proposed rules would require applicants to include conditions of consent as part of applications that would prohibit applications for Code Compliance Certificates being made until the necessary infrastructure works had been completed. This approach arose out of planning conferencing and was not the subject of particular objection in evidence (but was raised by counsel for Koko Ridge, which is addressed in Section 14) and we have accepted it, but we do record scepticism that any reliance on the principle of *Augier* could be made where an Applicant includes a condition of consent based on the requirements of a plan rule rather than volunteering it of their free will. While our draft report was released for minor and technical (including legal) comments we did not receive any legal comments on the approach applied in relation to this matter.
- 13.28 We have recommended deletion of rules 49.5.14D (note it has been replaced by a new provision), 49.5.36C, 49.5.52A, and 49.5.57A. These rules unnecessarily duplicated content within the principal infrastructure trigger rules referred to above.
- 13.29 The Council also sought to include a policy in the subdivision chapter, at 27.3.24.6. We recommend this policy be retained. It justifies rule 27.7.28.2(h). Although the Council has placed a land use focus on the occupation of buildings and the issue of Code Compliance Certificates under the Building Act, the provision of required infrastructure will often not be tied to works on an individual house or allotment but a wider subdivision stage. Coordination of key infrastructure through the subdivision process is in our view logical, efficient and effective.
- 13.30 We have to that end also modified rule 27.7.28.2(h) to delete reference to restricting certification of subdivisions under s224(c) of the RMA; that conflicts with the Council's proposed approach of managing the issue of Code Compliance Certificates at the Building Consent stage (applications for building consent being tied to ownership of a defined parcel of land).

Development setbacks

- 13.31 We are generally supportive of the regime of setbacks identified by the Council but have added additional setbacks to clarify what should happen where a private way is provided instead of a public road, but where the private way is intended to serve the function of or as a substitute to a public road.
- 13.32 As discussed in Sections 9 and 12, we have not been persuaded to support the Council's proposed landscape setbacks along SH6. We find instead that a 10m setback on the

north-side of SH6, and a 25m setback on the south-side, are the most appropriate. We have amended the provisions to reflect this including that within each setback the provision of continuous footpath and bicycle facilities (which could be combined or separate carriageways), and landscaping are to be provided. There was no clarity by the conclusion of the Hearing as to what status the land should have. We would suggest, if it was to be Council-owned, that road reserve might be the most obvious choice noting the function of the setbacks being to provide landscaping, pedestrian and cycle access alongside SH6 similar to what can be ordinarily observed along roads, but that Waka Kotahi has elected to not provide for. But by the same token provided that a public access right was properly provided for a coordinated ongoing maintenance was addressed, the setbacks could equally function as privately owned spaces.

- 13.33 There was much discussion on the status of this land in the responses from submitters to questions following the Hearing and in the Council's Response Statements and the Reply s42A Report. Ultimately, land ownership and how land is acquired are not RMA matters (beyond financial contributions) and while we recognise the issues (especially who pays and how) that is not for the TPLM Variation to resolve. We are content that the details of this, which could vary between different landowners along the highway frontages, can be addressed at the time of subdivision and/or land use.
- 13.34 As a part of this finding, and as noted previously, we recommend deletion of the various road cross sections and other landscaping diagrams proposed by the Council; the proposed subdivision provisions ably govern these matters, and we note in particular that the question of landscaping within the required SH6 setbacks was not persuasively resolved.

Visitor accommodation and residential visitor accommodation

- 13.35 The enablement (or not) of visitor accommodation and residential visitor accommodation was of particular interest to several submitters⁴⁵⁸ and the Council based on its analysis of its housing market and what appears to have been a structural shift away from homeowners offering long-term rentals to short-duration stays.
- 13.36 The Council has defined these as specific activities and then proposed to limit the provision for them across the different Zone Precincts.
- 13.37 We grappled with the principle of reducing the freedoms that future homeowners might enjoy, especially in terms of what is currently the lawful use of property for short-stay accommodation purposes. We envisaged a scenario of a young couple purchasing a dwelling and living with relatives for a period of years while paying tenants helped reduce an initial mortgage to a manageable level for that household, at which point it could occupy the dwelling. Higher yielding short-term accommodation could see them occupy the dwelling in a shorter timeframe than lower-yielding long-term renting. We can therefore see obvious and potentially substantial costs involved in removing that opportunity.

⁴⁵⁸ GDL (73), Ladies Mile Property Syndicate (77), Koko Ridge Limited and W Foley (80), Sanderson (93), Winter Miles Airstream Limited (94), Maryhill Limited (105) sought that provisions be made for RVA (and VA) in the TPLM Zone. Submitters G Erving (51) and C Evans (95) supported the proposed avoidance approach.

- 13.38 However, we have considered that the TPLM Variation is location-specific, rather than across the whole District, and applies to what is a substantially green-field location. We have also reflected on the purpose of the TPLM Variation and the resource management context against which it has arisen – wherein there is a significant housing affordability problem, as well as the Minister's Expectations. Purchasers of new dwellings within the TPLM Zone would be aware of what the dwellings could and could not be used for, and purchasers would make decisions with that in mind.
- 13.39 We find that the most appropriate solution for the TPLM Zone is to restrict visitor accommodation and residential visitor accommodation in the manner proposed by the Council. In the case of the two areas of Local Shopping Centre zone, these are each small and we are satisfied that retaining the underlying zone management framework for visitor accommodation and residential visitor accommodation is the most appropriate outcome.

Historic heritage

- 13.40 The Glenpanel Precinct, centred around a historic homestead, was generally supported. Some submitters sought changes to the Structure Plan and provisions.⁴⁵⁹
- 13.41 GDL sought additional building height (to 17m) within the Precinct to maximise density opportunities and support the potential of the Homestead and grounds to be a focal point of activity within the Zone. This was supported by experts including Mr Weir (urban design), Mr Milne (landscape), and Mr Thompson (economics). GDL also had a development plan including water reservoirs on Slope Hill ONL and sought planning provisions to more clearly enable this, including moving the UGB to include the area, and sought additional development land at the toe of Slope Hill ONF (which we have addressed in Section 9).
- 13.42 The Council provided evidence addressing all issues raised by GDL and these were tested through the Hearing . GDL itself revised its relief as the Hearing unfolded (as is common), such as seeking to instead only include a small area of Slope Hill within the UGB for the purposes of future water reservoirs rather than the larger area identified in its pre-circulated evidence. Expert conferencing between the parties was also undertaken and we express our appreciation to the parties and participants for those efforts.
- 13.43 By the time of the Council's reply, its position was that provided suitable setbacks around the Homestead was accommodated, additional height up to 17m would be acceptable, along with other policy and rule adjustments as set out by Mr Miller and Mr Brown.
- 13.44 We prefer the Council's proposal and have largely adopted that although we identified in our deliberations an error in the provisions; the effect of the Council's proposed rule 49.4.1A, applying across the entirety of the Zone, was to make any residential activity (with no density requirements) permitted within the Glenpanel and Open Space Precincts. This is not what was anticipated. Both the Council and GDL sought additional height specifically to help accommodate maximum density (i.e., vertically), and the

⁴⁵⁹ GDL (73), Maryhill Ltd (105) and Milstead Trust (108).

Council saw the Zone as a location for historic heritage, commercial and community activities (as per the Zone Purpose summary and the Glenpanel Precinct objectives and policies). Within this framework we see no room for unrestricted residential activities at the ground floor level.

- 13.45 We have corrected this error to make residential activity in the Open Space Precinct a non-complying activity, and to make residential activity above the ground floor in the Glenpanel Precinct a permitted activity (rule 49.4.1) but subject to no specific requirement for minimum density to be achieved (this is as per the Commercial Precinct).

Other matters

- 13.46 Changes to rules and other Plan Chapters (other than minor re-formatting or inconsequential refinement):
- (a) We amended Chapter 15 provisions to align the two areas of Local Shopping Centre zones within the TPLM Structure Plan area with the TPLM framework. We find that these changes were consequential and necessary relief to support our findings as to the most appropriate land use outcomes within the TPLM Zone and as raised by the submissions. This includes provision for any part of the 10m Building Restriction Area along SH6 that may be relevant.
 - (b) Considering the significance of maximising housing outcomes within the TPLM Zone, and frequently relevant other issues relating to urban form outcomes and environmental benefits, we find that it is more appropriate to itemise a set of 'global' restrictions of discretion that should apply to all RD activities rather than duplicating the same restrictions frequently across the zone tables. This is provided at 49.4.0.1, 49.5.0.1, and 15.4.0.1 (with amendments to reflect the specific nature of the Chapter 15 activity table).
 - (c) At Rule 49.4.4A, we have added the trigger we find to be most appropriate in relation to a high school within the TPLM Zone. In recognition that the Council and Ministry of Education were unwilling to volunteer any specific certainty or timing for such an outcome (despite the importance of one attached to the Council's case), we have made this a RD activity and provided for consideration of circumstances where a secondary school was not in operation by the time of the 1,100 dwelling threshold we prefer (see Section 12) being reached.
 - (d) We have clarified all residential density rules refer to a net density, which we find to be the more readily measurable and usable method within the Plan.
 - (e) At Rule 49.4.38A, we have provided for one service station only within the Commercial Precinct, recognising that the passenger transport and cycle facilities being relied on by the Council are not yet in place and may take several years to be fully implemented. A service station will also contribute to activity and vitality within the zone and helps internalise vehicular travel south of SH6 on the eastern side of the Shotover River (currently to refuel residents in Lake Hayes Estate or Shotover Country must travel west across Shotover River). In this respect a

service station is in our view consistent with the intent and purpose of the TPLM Zone.

- (f) At 49.5.0.2, we have added a resource consent prioritisation method for the Residential and Commercial Precinct (but not the Glenpanel and Open Space Precincts), where applications for consent are made based on not complying with the applicable standards. We were not persuaded that the standards are so essential to framing the absolute maximum tolerable adverse effects within the TPLM Zone that 'infringing' applications just should not be made or that granting consent could only occur in exceptional circumstances. We find that the purpose of the TPLM Zone is to appropriately accommodate as much housing as possible in a way that is likely to support the least-possible private vehicle use and significant use of passenger transport. We could not see a justification for refusing consent applications that could contribute to these outcomes just because of a principle that rule compliance was a fundamental requirement. We excluded the Glenpanel and Open Space Precincts because they have a sufficient emphasis on other priorities (including heritage values in the Glenpanel Precinct), that such a pre-empting prioritisation would not be appropriate.
- (g) For the Precincts that adjoin SH6, we added rules governing the provision, design and management of the 10m (north-side) and 25m (south-side) Building Restriction Areas, which were discussed previously. We reiterate that we were not persuaded that any one management or ownership outcome was essential to the BRAs successfully achieving their purpose, and we have provided flexibility via resource consent across Chapters 49, 15 and 27 of the Plan. We have also added to the various Precinct (and LCSZ) setback standards that there is a 0m building setback from the 'internal' edge of the SH6 BRAs – they themselves form the necessary building setbacks, and another setback from a setback made no sense to us.
- (h) In the Medium and High-Density Residential Precincts, at Rule 49.5.22, we have added setbacks relating to private ways noting that we are minded to not create an unintended incentive to subsequent developers to prefer private roads ahead of public roads thinking there may be a less onerous development or amenity expectation on these. We have introduced a framework of differentiating between private ways that have the function of a public road or street, and those that are for purely private service and vehicle access needs. This is a consequential change arising from our deletion of residential parking maxima and the intended outcomes sought by the Council for high quality pedestrian-friendly streets.
- (i) At Chapter 4 of the Plan, we have deleted the provisions added by Mr Brown at 4.2.2.21(c) and (ca) on the basis that we were not persuaded that a landscaped gateway treatment has been adequately justified – and in fact undermines the conditions identified by the traffic engineers we heard from supporting a 60km/h speed environment along SH6. We find that although we have retained a BRA

along SH6, this does not rise to the level of a Chapter 4 District-Wide strategic priority.

- (j) We also recommend deletion of policy 4.2.2.22; Chapter 49 contains suitable and sufficient provisions to manage applications for resource consent that do not meet the required density minimum. Repeating that in Chapter 4 will just add unnecessary duplication and not assist the assessment of consent applications.
- (k) We have deleted any reference to the PDP High-Density Residential zone. This was added by the Council because of its agreement that the Doolittle Land at Howards Drive was suitable for that zone. We have found that the more appropriate zone to support the purpose of the TPLM Zone is Local Shopping Centre, and to that end we have proposed to add consequential Chapter 15 provisions as discussed earlier.
- (l) We have revised Chapter 27 including policy 27.3.24.4 to bring it into alignment with our zone and development-based recommendations. We have also clarified policy 27.3.24.6 so that there is a clearer relationship between subdivision, land use, the requirement of infrastructure upgrades, and the key trigger in the Chapter 49 and 15 rules relating to the issue of a Code Compliance Certificate under the Building Act.
- (m) We have also made numerous refinements across Chapter 27 to link the TPLM Zone with the areas of Local Shopping Centre zone we have found should be added within the TPLM Structure Plan area (but which would not form part of the TPLM Zone itself).
- (n) We have deleted from rule 27.7.28.2 information requirement (b)(vii). This amounted to a compulsion to undertake consultation which we find goes beyond the RMA contemplates for resource consents. We considered refining this to refer only to the provision of information relating to any consultation that had been undertaken, but we note that s88 of the RMA already requires this. For the same reason, we recommend deletion of the note proposed at rule 27.10 relating to a required written approval from Kāi Tahu and all affected landowners. The standard notification tests of the RMA can be relied on to manage applications including stormwater management that have affected parties.
- (o) In Chapter 29, and as a consequential change to our findings on how to most appropriately manage the quality of street frontages and garages, accesses and parking, we recommend amending rule 29.5.25.2 to require specification of vehicle crossings as part of subdivisions (in the scenario of a subdivision proposal being advanced ahead of any land use proposal). This is to ensure that subdivision-led development does not result in a lesser quality of outcomes than land use-led development. We have also recommended consequential standards to manage the provisions of rear service lanes (rule 29.5.25A), which we find particularly relevant to managing the future effects of attached housing developments.

Specific provisions added in response to submissions

13.47 Specific provision amendments relating to the Extension Area (AHFT), the Dobb site, the Doolittle site, Koko Ridge and QCC are addressed further in Section 14 below.

S.32AA evaluation

- 13.48 In working through all the matters above and the proposed TPLM Zone provisions, we confirm that we considered each provision individually, as well as all provisions collectively, as we worked through our s32AA evaluation. Further we received s32AA evaluations from Mr Brown for all changes sought by and agreed to by the Council since notification. For additional changes we received s32AA evaluation from the relevant experts. For changes we have made we have relied on the evidence we received and as accepted and explained in our report. The analysis we relied on was in the form of the extensive body of expert and non-expert evidence provided to us before, at and after the Hearing.
- 13.49 Although the extent of provisions we recommend being amended may seem substantial, for the most part it arises by way of consequential refinements based on a relatively limited number of key decisions relating to infrastructure, density, car parking, and built form.
- 13.50 For the purpose of s32AA, the Plan provisions we recommend will be the most appropriate to implement the objectives and policies. They will also be the most practical, efficient and effective way of managing development in the zone, achieving the Minister's objectives, and of ensuring that the provision of affordable housing in the District can be maximised. In arriving at this conclusion, we did not need to commission or undertake any additional studies or analysis, finding the extensive work undertaken by the Council and submitters (even when we did not always fully agree with them) more than sufficient and summarised through our evaluations set out in this report.

Finding and recommendation

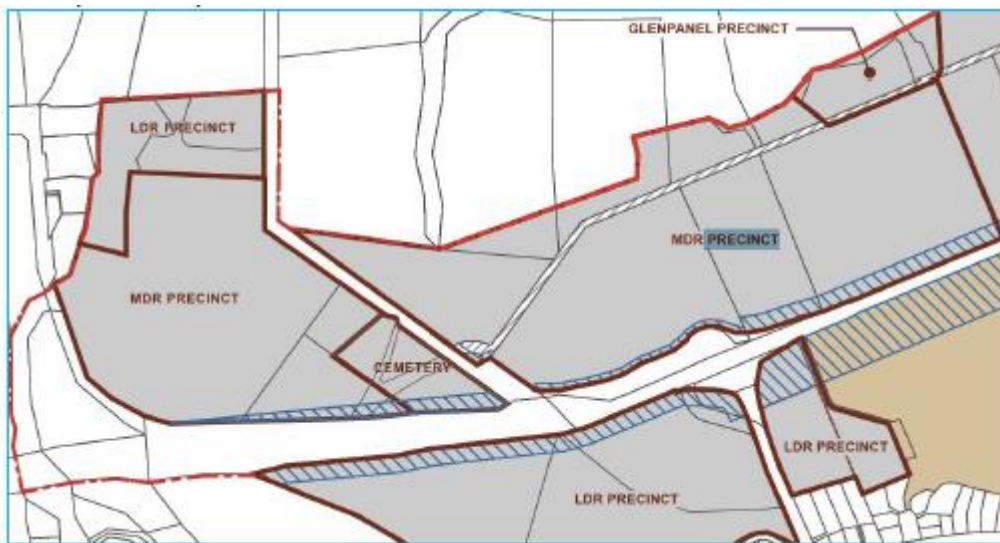
- 13.51 For the reasons set out above we recommend that the Minister accept the TPLM Variation provisions as attached in **Appendix 1** to address the various matters listed in this section. We consider these provisions are efficient and effective and are most appropriate to achieve the objectives.
- 13.52 We therefore accept the submissions referred to in this section (and sections 9 to 12 and 14 as relevant) insofar as they align with the provisions as we recommend and reject them to the extent they differ.

14. SPECIFIC LANDOWNER MATTERS

AHFT

- 14.1 This section focuses on the substantive merits of the AHFT submission. The jurisdictional matter is address in Section 4 above).
- 14.2 As shown in **Figure 9**, the AHFT submission⁴⁶⁰ sought that an area (Extension Area) of approximately 20ha to the west of the existing TPLM Zone be rezoned from its current WBLP Zone to the TPLM Zone (with MDR and LDR precincts and included in the UGB). The submission proposed changes to the provisions to accommodate the Extension Area.

Figure 9: The extension sought of the Te Pūtahi Ladies Mile Zone westwards



- 14.3 As mentioned above, the Further Submitters and Mr Stalker, opposed the submission.
- 14.4 The s42A Report relying on the evidence from the Council experts (Mr Skelton, Ms Fairgray and Mr Dun) at that time recommended rejecting the AHFT submission in its entirety.
- 14.5 AHFT filed extensive evidence, which was responded to in rebuttal, expert conferencing, questions and during the Hearing by the Council experts. Further detail and amendments on behalf of AHFT were provided on 18 December 2023 and the Council responded to that material in its reply. Given the volume of material provided for ease of explanation the evidence provided is assessed thematically below. We also, as expressed during the Hearing, had considerable sympathy for the position stated by Mr Brown as to the detail provided by AHFT at various times. Ultimately, Mr Brown concluded that AHFT had provide considerable material and evidence and we agree.

Issues raised on behalf of the Further Submitters

- 14.6 The Further Submitters provided expert evidence from Mr Geddes. Appended to his evidence were statements from the Further Submitters which we have read and considered.

⁴⁶⁰ Submitter 107.

- 14.7 At conferencing it was agreed that a 2.4ha area of the Extension Area adjacent to the Further Submitters dwellings would remain WBLP Zone. Mr Geddes confirmed that this alleviated his concerns as to residential privacy / amenity as well as amenity values and noise on those properties.⁴⁶¹ We agree. We initially had concerns as to the development proposed in this location. Following our site visit, and having considered the evidence, we consider that the removal of this land from the Extension Area will avoid the neighbouring amenity effects.
- 14.8 That left issues of landscape and visual amenity. Mr Geddes did not agree with the manner that Mr Milne applied the WBLP Zone development and relied on the evidence of Mr Skelton. We therefore address these matters in relation to the specialist experts below.
- 14.9 The Further Submitters commented on views from the Old Shotover Bridge and the heritage nature of that and the Ferry Hotel being adversely impacted by the Extension Area (and lost forever). We have assessed the views from the old Shotover Bridge below, and within that the heritage setting, and for the reasons set out, consider that the Extension Area, as has been refined by AHFT and further modified by us (LDR on the lower terrace), appropriately mitigates effects on this setting.
- 14.10 Several Further Submitters also raised traffic issues and the issues of increased traffic typically more generally. We are also mindful of such potential effects and have considered them in detail in Section 12. However, more specifically, we consider that with the changes made to the Extension Area that adverse traffic effects for the Further Submitters will be appropriately managed.

Location of the Extension Area

- 14.11 The economic experts agreed that the Extension Area is efficiently located at a District level.⁴⁶² The position of Messrs Heath, Osborne, Church and Weir further reinforce the strategic nature of this location (as also discussed in Section 3). That evidence reflects the Spatial Plan and the eastern corridor concept, and the urban design development at a District level explained, in particular, by Mr Church. We agree that the Extension Area is in a strategic and efficient location for urban development.

Economic suitability of the site for urbanisation

- 14.12 The economic experts agreed that the site was suitable for urbanisation (questions remained as to the appropriate density), that there would be significant opportunity cost if the land was developed under its current zoning and that it falls within the primary catchment area of the Commercial Precinct.⁴⁶³
- 14.13 Mr Heath considered that the Extension Area would further support the commercial precinct through additional demand which Ms Hampson supported,⁴⁶⁴ particularly in the long-term. Ms Hampson and Ms Fairgray had concerns in relation to the potential for

⁴⁶¹ Summary Statement, at [4].

⁴⁶² JWS, 2 November 2023, at Point 3.

⁴⁶³ JWS, 2 November 2023, at Point 3.

⁴⁶⁴ Rebuttal Evidence, at [15].

dilution effects on the commercial centre and timing of housing development within the TPLM Site.

14.14 Two matters altered that, the change in densities (addressed in Section 13) which alter the likely total number of dwellings across the TPLM Site and Ms Fairgray in her Response Statement reassessing the revised MDR area (at 8ha) and hence lower dwelling yield which reduced her concerns of dilution effects.⁴⁶⁵ Our initial concern of dilution if MDR was included on the TPLM Site was addressed by both these matters (and our further reduction in the MDR area as set out below which will reduce further any potential effects of timing of development).

14.15 Mr Osborne concluded:

...essentially, even over the short to medium term, the Extension Area proposed represents an efficient location for development that is unlikely to result in any tangible economic costs, while contributing to a more efficient, effective and affordable housing market for the Queenstown Lakes community.⁴⁶⁶

14.16 For the reasons above, we agree with Mr Osborne and accept that, at an economic level, the Extension Area is suitable for both urbanisation and MDR zoning.

14.17 A matter that arose later in the Hearing is the potential for a new Catholic primary school to be developed at the western end of the TPLM Site (see the Roman Catholic Bishop of Dunedin's submission addressed below). While not a matter directly addressed such an outcome would, in our view, integrate with the more intensive proposed urban development on the TPLM site.

Provision of a neighbourhood centre

14.18 The economic experts agreed⁴⁶⁷ that if the Extension Area is included there is merit in including a neighbourhood centre. As explained in Section 13 there was ongoing disagreement as to the size and location of any such centre,⁴⁶⁸ and a question as to scope for us to provide for it. In relation to scope the AHFT submission also extended across the eastern part of the TPLM Site. While no commercial zoning was requested consequential and ancillary relief was sought. We consider there is scope within the AHFT submission to consider a commercial centre at the western end of the TPLM variation.

14.19 As set out in Section 13, on the basis of the expert alignment, we support a small neighbourhood focused commercial area at the western end. It will reduce car trips and provide deliver a well-functioning urban environment. At the neighbour scale it will not compete with, and draw business from, the commercial precinct.

14.20 We therefore support a small centre at the western end of that size and require that the Structure Plan indicate the correct size. As set out in Section 13 we have determined that a 3,500m² zone area would be sufficient noting our imposition of a 1,500m² GFA

⁴⁶⁵ Response Statement, at [39].

⁴⁶⁶ Summary Statement, at [15].

⁴⁶⁷ JWS, 2 November 2023, at Point 3.

⁴⁶⁸ In her Rebuttal Evidence Ms Hampstead considered a gross site area of up to 2,000m². As explained in Section 13 AHFT sought in its Memorandum of Counsel, 18 December 2023, Appendix B, page 8 a floor area of 2,000m². Mr Dun in his Response Statement sought a smaller area than AHFT had shown on its structure Plan.

cap. In relation to its location, that is also addressed in Section 13. As we mention in Section 12, and below, we prefer the Council's Structure Plan Roding layout at the western end of the TPLM Zone and we ask the Council team to amend the Structure Plan accordingly with its draft comments.

- 14.21 The final point is what zoning applies to this area. AHFT in its Structure Plan have proposed, similar to the Doolytle site which we address below, that it be a Local Shopping Centre Zone. We agree. However, we have taken a different approach to Mr Murray in relation to the drafting of the provisions by simply applying the PDP LSC Zone provisions, as set out in Section 13. We consider this to be a more efficient and effective method and most appropriate to achieve the objectives.

Transport issues

- 14.22 The transport issues related to the inclusion of the Extension Area are assessed in Section 12. As explained, while there was a difference in expert opinion, we consider that the Extension Area can appropriately connect with and will not cause additional adverse effects which need to be further managed on, the transport network.
- 14.23 While the walking distance for the area to a bus stop is at the higher end or greater than for the rest of the TPLM Zone we do not consider, for the reasons provided in Section 12, that this should result in the Extension Area being rejected (nor that it would have any meaningful impact on mode share for public transport). Rather, we consider, that with the TPLM Variation as we recommend the Extension Area can be efficiently and effectively included within the TPLM Site from a transport perspective.

Landscape Character

- 14.24 Despite extensive evidence, questions, and conferencing no agreement was reached on this matter. Through the Hearing process a reasonable degree of change to the Extension Area and what was proposed occurred which obviously resulted in changes to the potential effects. While providing different positions we found the evidence of Mr Skelton and Mr Milne helpful in providing robust information (including visual material) to inform our decision-making. Further, our site visits, enabled us to consider the evidence and imagery in light with what we witnessed and that was invaluable. Put simply:
- (a) Mr Milne considered that the landscape character of the Shotover River ONF and the wider Wakatipu Basin would be retained.⁴⁶⁹ He also considered that the wider effects on Shotover River ONF would be low and in the immediate setting would be low-moderate.⁴⁷⁰
 - (b) Mr Skelton considered that the natural character of the terraces would be adversely affected to a moderate degree and that the open character of the landscape would be significantly diminished and adversely affected to a minor degree.⁴⁷¹ In relation to the Shotover River ONF, given its scale Mr Skelton

⁴⁶⁹ Statement of Evidence at [16].

⁴⁷⁰ At [61].

⁴⁷¹ At [100].

considered overall the adverse effect would be low but in the immediate area the adverse effect would be moderate.⁴⁷²

- 14.25 We agree with the experts that when considering the Shotover River ONF as a whole the effects are low. As always, in the immediate vicinity of the Extension Area the effects at a local scale will be greater. We consider that the Extension Area, developed as now proposed by AHFT (with the northern end of the lower terrace removed and the central road cutting through the terrace shifted), and with our proposed reduction in density on the lower terrace (to LDR Zone) appropriately mitigates the potential effects on the Shotover River ONF. We consider these changes are required to address the concerns raised by Mr Skelton. These measures, and our proposed changes (including to the active transport route), as well as the 20m setback from escarpment edges proposed by AHFT, also appropriately address the effects on the character and landscape values of the escarpments.⁴⁷³
- 14.26 Both witnesses also referred to the LCU 7 – Domain Road. This is an elongated LCU essentially hugging the eastern bank of the Shotover River from SH6 to the Dalefield LCU in the north. The Schedule to Chapter 24 of the PDP describes this LCU in detail and we have carefully considered that, and the evidence on it, including in relation to comments on its ability to absorb change (rated at moderate to high) and what that means. We are comfortable that the level of development within the Extension Area at the southern end of the LCU (noting its reduced sensitivity), and with the mitigation proposed, is appropriate within the character of LCU 7, its connection to the River and reading the character as part of the River fringe (including the escarpments). Our proposed reduction in density on the lower terrace responds to, and we consider appropriately retains, the River terrace edge character within LCU 7. We do not consider on the evidence that medium density is appropriate on the lower terrace on landscape and natural character grounds.

Visual Effects

- 14.27 As for landscape character we received extensive evidence, the plans for what was proposed have changed over time and our site visits were crucial in enabling us to form our views. Put simply:
- (a) Mr Milne's position was that while the development would alter the existing (and zoned) environment those changes were acceptable and would be visually contained and that the development would retain the key visual amenity values associated with the Shotover River, the upper slopes of Slope Hill and more distant views.
 - (b) Mr Skelton's position was that the WLBP zoning results in a more rural character than an urban one and that the development would extend the effects into LUC7 and result in moderate to high adverse effects (when view from the Old Shotover River Bridge, Tucker Way, Jims Way and SH6 (especially where, heading east, it cuts down to the Shotover River providing a prominent view of the Extension Area

⁴⁷² At [101].

⁴⁷³ Which the planners agreed to be important and to be "treated with care". Planning JWS, Friday 3 November at page 8.

with the Shotover River ONF below the Site and the Slope Hill ONF above it and the wider Crown Range ONF in the background).

14.28 We agree with Mr Milne and consider that the Extension Area can accommodate additional development without resulting in unacceptable adverse visual amenity effects. We accept that the WBLP zoning allows modification of the site but agree with Mr Skelton that while housing may occur it is at a more rural density (and fundamentally different to what is proposed). We also recognise that what is proposed brings urban development at much greater density into the very southern end of LUC 7 but we agree with Mr Milne that that can be appropriately accommodated within the context and values of LUC 7 (and as above we have considered the LUC 7 Schedule in Chapter 24 of the PDP and note in particular the visual elements listed and retention of a connection with the riverscape, setback of buildings from river terrace edges and integration of buildings with plantings as matters to be maintained and enhanced recognising the modified nature of the area).

14.29 In relation to the key new viewing locations and values:

- (a) We accept that from SH6 heading east the new development will be highly visible. But, and we agree with Mr Milne,⁴⁷⁴ that will be seen in light of this part of SH6 being urban in context (linking the urban area of Frankton Flats with the new urban area of Ladies Mile with Quail Rise to one side and the WWTP to the other). In that context, with views of the Shotover River, Slope Hill and the wider Crown Range being retained, although the visual experience will be altered, we consider the visual effects appropriate. The outcome would be development (with mitigation, especially setbacks from the escarpment edges and reduced medium density development as discussed below) along the two river terraces, but we consider that would be appropriately visually constrained and fitting with an urban state highway (critically with ONF views retained⁴⁷⁵).
- (b) We consider that the development will be highly visible from Tucker Beach Road and Jim's Way (with variation depending on vegetation). But, set back from the Shotover River ONF, and with the changes proposed, and further proposed by us especially on the lower terrace, we agree with Mr Milne that it will be visually contained and appropriate in its context.
- (c) Again, the development will be visible from parts of Quail Rise (depending on vegetation), but as for Tucker Brach and Jims Way above, we consider the development (as changed) to be appropriate in its context.
- (d) From the Old Shotover Bridge the development will be visible (again the degree depending on vegetation) but again setback from the River and with the viewpoint of the SH6 bridge. We are also mindful of the heritage elements in play with the bridge, and the old Ferry Hotel and ensuring that adverse effects on them are appropriately managed. As above setbacks from the escarpment edge and our reduction in medium density development will reduce effects at this location, as

⁴⁷⁴ In his answers during the Hearing.

⁴⁷⁵ Noting that 97% of the District is an ONF or an ONL.

will the northern extension of development originally proposed by no longer being advanced.

14.30 We have mentioned mitigation above. The AHFT submission proposes, and we recommend, a minimum 20m setback from the escarpment edges and escarpment planting through a landscape management plan (the initial plans had a central and very visible road cut, but this has been shifted on the latest plans). The proposed AHFT Structure Plan presently shows an active transport links passing down across the escarpment from the upper to lower terrace. Given the importance of the terraces as landscape features (both as explained in the evidence and in the PDP Chapter 24 Schedule for LUC 7 we do not support such an outcome. The AHFT submission has also evolved and the area of land on the lower terrace above the Further Submitters properties is no longer proposed for inclusion. It is now also proposed (see below) for there to be a landscape management plan. We have carefully considered the evidence on visual effects (and landscape character), and our assessment from the site visit, and consider that development within the lower terrace must be lower density (LDR Zone) to ensure that visual and landscape effects are appropriately mitigated.

Defendable edge

- 14.31 Despite extensive evidence (from landscape and urban design experts on behalf of both AHFT and the Council), questions, and conferencing, no agreement was reached on this matter. In Reply Submissions counsel for the Council provided helpful guidance on defendable edges and their role in the plan in protecting the UGB (PDP Objective 4.2.1) and summarised case law addressing that objective which we have considered and applied.⁴⁷⁶ We also agree with counsel that what constitutes a defendable edge will be highly dependent on the facts. Finally, we again note that the AHFT proposal has altered through the course of the process.
- 14.32 In relation to this issue, we do not, as some of the evidence was focused, see it as needing to justify the existing TPLM boundary. Rather we see the relevant issue as whether, if we accept including the Extension Area, it contains a defendable edge against applications for greater density to the north of the site (within LCU 7).
- 14.33 It is useful however to consider the TPLM Site for comparative purposes. In considering the defensible edge of the TPLM Variation Mr Skelton considered the western edge to be defined by the transition "between the flatlands of TPLM Site and the more complex topography of Slope Hill – Shotover River terrace interface"⁴⁷⁷ with the presence of Lower Shotover Road, the cemetery and the SH6 cut reinforcing that edge.
- 14.34 Mr Milne considered that the Extension Area has a defensible boundary as at its northern end there is a defined gully system "severing" it from land to the north. Put simply, Mr Skelton rejected the gully systems as an effective boundary⁴⁷⁸ such that the Extension Area is not well contained by any physical feature, leaving "no defendable edge to the

⁴⁷⁶ Reply Legal Submissions, at [124].

⁴⁷⁷ At [94] and [95] and also discussed at [60].

⁴⁷⁸ At [23].

north to check the spread of development."⁴⁷⁹ Mr Harland was also very clear that in his opinion the Extension Area boundary was not defensible.

- 14.35 We considered the defensible boundary during our site visits. While we recognise that no boundary will ever be perfect, we consider that the boundaries to the west (the Shotover River and the terrace escarpment) and to the east (Lower Shotover Road which already forms part of the UGB boundary albeit with the cemetery on the other side) to be distinct, enduring long term and consistent with the case law.
- 14.36 The issue really comes down to the northern boundary; is it sufficiently distinct and defensible? We looked at that carefully during the site visit. Our site visit illustrated that the gully is a feature which, while not unique, is sufficiently distinct. We also considered the LCU 7 Schedule in the PDP and the more complex nature of the southern end of LCU 7. Overall, we prefer Mr Milne's evidence on this matter. The next question is whether it is sufficient enduring? We note the use of landscape features coming down Slope Hill for the northwestern edge of the TPLM Variation and Mr Skelton's use of landscape buffers to support the edge in that location. A similar landscape buffer is proposed by AHFT, as is LDR Zoning at the northern end of the Extension Area which avoids medium density to the northern UGB and provides a graduated density transition towards the gully (and the more complex features as set out for LCU 7). The Extension Area on the lower terrace to the north has been removed (the WBLP zoning remains) and no medium density is provided on the lower terrace. Given these factors, and the gully system, we consider that the UGB to the north of the Extension Area will be enduring.

Urban design

- 14.37 As noted above the design and proposed development within the Extension Area has changed over time such that the potential adverse effects have also changed. Mr Weir attached diagrams to his Statement of Evidence showing various general level details of the proposed development at that time which included 3.46ha of LDR, 8.94ha of MDR. Over time those areas have changed, as has the proposed design of the Extension Area. Views have also modified through the process with Mr Harland accepting during the Hearing that there was a distinction between the lower and upper terrace – with that later being more accessible into the TPLM Site. We agree.
- 14.38 In his rebuttal evidence, Mr Dun succinctly set out his concerns. The issue of walkable catchment is addressed in Section 12 and above. Concerns related to the 2,400 dwelling 'cap' have been addressed through the Hearing given the density changes across the TPLM Site and the reduction in proposed MDR area within the Extension Area (as addressed above). The disputes over landscape effects are also addressed above.
- 14.39 In his Response Statement Mr Dun set out a response to the plans provided by AHFT on 18 December 2023. We agree with Mr Dun that greater detail is required. We found his response helpful and have responded to his points (and more) in Section 13.

⁴⁷⁹ At [98].

- 14.40 The urban design matters relate closely to the planning provisions and the Structure Plan. We have addressed the planning provisions below and commented on them as required. We note that we consider the MDR Zoning should be removed from the lower terrace.
- 14.41 We briefly mention the evidence of Mr Weir, and Mr Church, in relation to the strategic location of the site and, from an urban design perspective, the benefits that provides (access to amenities, infrastructure etc). This benefit of the Extension Area was also explained in detail by the AHFT economic experts (see above).
- 14.42 Mr Weir also provided evidence as to density, supporting a lesser density. Elements related to density for the MDR zone is addressed in Section 13 and we do not repeat the discussion and reasoning for our position of a minimum density of 40 dwellings per hectare (net) further here. In his Rebuttal Evidence questioned the lower densities sought by Mr Weir.

Other matters

14.43 We have also considered several other matters as relevant to the Extension Area:

- (a) Affordable Housing:⁴⁸⁰ We heard from Ms Scott, CEO of the Queenstown Lakes Community Housing Trust (**QLCHT**). They have entered into an agreement with AHFT in relation to provision of a percentage of housing should development within the Extension Area occur.
- (b) Infrastructure: We accept the evidence of Mr Wood⁴⁸¹ for AHFT that there are options available for the extension Area to be serviced with water and wastewater such that this is not an issue to prevent including the Extension Area in the TPLM Variation. Ms Prestige agreed that it is feasible to add the Extension Area into any servicing design for water and wastewater.⁴⁸²
- (c) Ecology: No expert evidence was provided by AHFT on ecology. However, the ecology assessment undertaken by Ms Palmer covered the 'focus area' such that part of the Extension Area was included. During the Hearing Ms Palmer stated that she did not have any concerns in relation to the Extension Area beyond those already assessed. AHFT provided an assessment from Wildland Consultants⁴⁸³ which ultimately reached the same conclusion. In her Response Statement Ms Palmer stated that she had no reason to doubt the accuracy of the Wildland's assessment.
- (d) Heritage: As discussed above the old Shotover Bridge and Ferry Hotel have heritage values recognised in the PDP that must be considered in relation to the Extension Area. While the AHFT submission recognised the heritage values (and hence proposed LDR at the northern end of the extension area, no heritage

⁴⁸⁰ In relation to affordability generally during the Hearing we asked Mr Brown and the council team to consider additional options. In his Reply s42A Report, at [6.5] to [6.15] Mr Brown responded. Ultimately, we have accepted the changes, slightly amended, to the objective and have recast the discretions as general restrictions on discretion to promote first and foremost greater density, choice and affordability.

⁴⁸¹ The original witness was Mr Regan but this later changed to Mr Wood.

⁴⁸² Rebuttal Evidence, at [8] and [14].

⁴⁸³ Dated 8 December 2023.

evidence was provided. Mr Millar in his Rebuttal Evidence considered that a heritage assessment was essential to support the Extension Area. As explained above further changes then occurred such that the Extension Area adjacent to the Further Submitters land has been removed (and the present WBLP zoning will apply). We have, for landscape (visual and character) reasons, also removed MDR from the lower terrace. We consider that potential heritage effects of the Extension area have been appropriately avoided and mitigated.

- (e) Stormwater: It was agreed by the experts during expert conferencing⁴⁸⁴ that the same stormwater management principles in terms of disposal to land could occur on the Extension Area. Mr Ladbroke provided evidence, and responded⁴⁸⁵ to questions on stormwater in relation to the Extension Area. His opinion was that there "is nothing materially different about the extension area sought by the Trust that would preclude a satisfactory stormwater solution being designed and implemented if the variation also applied to this land."⁴⁸⁶ This position aligned with that of Ms Prestige⁴⁸⁷ and Mr Gardiner.⁴⁸⁸ Mr Ladbroke concluded that a stormwater system could be designed that would not impact the Shotover River.⁴⁸⁹
- (f) Geotech: AHFT supplied a Preliminary Geotechnical Report⁴⁹⁰ for the Extension Area which did not identify any major geotechnical issues (including in relation to hazards) such that LDR and MDR is feasible to be developed.⁴⁹¹
- (g) Open space: In her Rebuttal Evidence⁴⁹² Ms Galavazi raised concerns of the local park proposed by Mr Weir in his Statement of Evidence, especially in relation to its steep location (recommending that local parks should be predominantly flat. In its amended Structure Plan⁴⁹³ AHFT has shown this park on the lower terrace. We have recommended several changes to the Structure Plan for the Extension Area. We are comfortable with the location of the park as shown but if in response to our changes it is proposed to relocate it then we will consider that as a minor change.

Planning

14.44 Mr Brown reached the position that while the Extension Area is generally appropriate for urbanisation, there were too many matters to be resolved.⁴⁹⁴ His preference remained that this be done through a separate masterplan and zone change process. We do not disagree that better master-panning / consideration of the Extension Area would have been beneficial. While ideally that consideration would have occurred through the TPLM process, and inclusion or exclusion of the Extension Area evaluated in the s32

⁴⁸⁴ Dated 2 November 2023.

⁴⁸⁵ Appendix A to the Memorandum of Counsel dated 18 December 2023.

⁴⁸⁶ Statement of Evidence, at [17].

⁴⁸⁷ Rebuttal Evidence, at [24].

⁴⁸⁸ Rebuttal Statement, at [11].

⁴⁸⁹ Statement of Evidence, at [31].

⁴⁹⁰ Appendix 3 to Mr Murray's Statement of Evidence.

⁴⁹¹ In Section 10.

⁴⁹² At [8].

⁴⁹³ Of 18 December 2023, Revision B.

⁴⁹⁴ Summary statement, at [9]. As stated during the Hearing at that time we had considerable sympathy with Mr Brown's comments.

Evaluation Report, we were in a position, as stated by Mr Brown later in the Hearing, that considerable evidence had now been provided by AHFT, and responded to by the Council experts, on these matters.

- 14.45 In his s42A Report Mr Brown explained how that in the Wakatipu Basin greenfield development with the attributes necessary for a larger scaled integrated development is a finite resource and its efficient use is critical. He listed the attributes⁴⁹⁵ and, in our opinion, they all also apply to the Extension Area (especially in combination with the TPLM Site).
- 14.46 We received planning evidence from Mr Murray on behalf of AHFT. Given Mr Brown's position, and our assessment of the issues through the Hearing, we asked Mr Murray to provide updated provisions and plans to accurately reflect the evidence presented through the Hearing process. That was provided on 18 December 2023.
- 14.47 Steeping through the drafting changes:
- (a) Zone purpose. We have made some minor amendments to reflect the inclusion of the Extension Area.
 - (b) Objectives and policies: We have made some minor amendments to reflect the inclusion of the Extension Area.
 - (c) Rule 49.4:
 - (i) 49.4.4(j): the change sought has already been adopted by Mr Brown in his Replay 42A Report version of the provisions and we rely on his s32AA assessment.
 - (ii) 49.4.6A: we reject the proposed change for RD status instead of NC status for breach of the 40 residential units per hectare. Our position on density, and reasons are given in Sections 12 and 13 above. Given the importance of density we consider that non-complying activity status is the most appropriate and efficient method to achieve the objectives as it clearly indicates that non-compliance with that limit is strongly discouraged.
 - (iii) 49.4.38C: we have added the exclusion of built development on the escarpments within Sub Areas K1 and K2, excluding the local road as shown on the Structure Plan. As mentioned above we do not consider that the active transport link should cut across the escarpment between the lower and upper terrace. This, and the exclusion of buildings, reflects the landscape and visual (and urban design) evidence as to the importance of the escarpments and their recognition within LUC 7 as described in the Schedule to Chapter 24 of the PDP. We consider including these provisions is efficient and effective to address landscape / visual amenity issues and achieve the objectives.

⁴⁹⁵ At [10.6(e)].

- (d) Rule 49.5:
- (i) 49.5.6: we have added the 20m setback from escarpment edges in Sub Area K1 as proposed by AHFT. Again, this rule is required to protect the landscape and visual amenity values of the escarpments. We note that the distance is from the escarpment edge as sought by AHFT. We discuss and set out our rationale for using the escarpment edge (as opposed to any property boundary) in relation to Koko Ridge and the same applies here. To make measurement more certain we have added measurement information requirements to Rule 49.5.6. We consider including these provisions is efficient and effective to address landscape / visual amenity issues and achieve the objectives.
 - (ii) 49.5.10: the proposed requirements are addressed in Section 12. We consider including these provisions is efficient and effective to address transport issues and achieve the objectives.
 - (iii) 49.5.11: we have not imposed a maximum number of residential units and have deleted this rule. We rely on the subdivision and built environment provisions to appropriately manage effects and do not consider that a cap is an efficient and effective method.
 - (iv) 49.5.14D (new provision): we have added, using the drafting from the medium density provisions, a new Rule 49.5.14D to set out the requirements for the northern landscape buffer (10m⁴⁹⁶) within Sub Areas K1 and K3. This buffer is proposed by AHFT and to be shown in the Structure Plan and we have also addressed it in relation to the defensible edge issue above. We have added to the Rule that there be no buildings and structures within the buffer to make that explicitly clear. We consider including these provisions is efficient and effective to address landscape / visual amenity issues, provide greater clarity to the defensible edge and achieve the objectives.
 - (v) 49.5.16: we have addressed issues of density, and the reasons for our changes to this rule, above.
 - (vi) 49.5.22: we have added, as proposed by AHFT, a 20m setback requirement for buildings from the escarpment edge. Our reasoning and s32AA justification for this change is as set out for Sub Area K1 above.
 - (vii) 49.5.33: the transport requirements have been amended as set out in the Section 12. We consider including these provisions is efficient and effective to address transport issues and achieve the objectives.
 - (viii) 49.5.36B: we have updated this landscape buffer provision to also include Sub Area K2 (and exclude buildings or structures) for the same reasons as given for Sub Areas K1 and K3 above.

⁴⁹⁶ Statement of Evidence of Mr Milne at [69(e)].

- (e) 27.7.28.1: Mr Murray provided provisions relating to the inclusion of Sub-Area K, and particularly the requirement for a landscape management plan. We agree with the provision of a landscape management plan in Sub-Area K as proposed. We have slightly altered Mr Murray's approach by adding a clear restriction of discretion and then an information requirement for a landscape management plan to be provided.

Section 32AA evaluation

- 14.48 Mr Murray provided a s32AA assessment of the changes sought by AHFT in his Statement of Evidence.⁴⁹⁷ He considered three options in relation to the Extension Area being: to provide medium and low-density development; provide low density development only; or the notified version of the TPLM Variation. We agree with and adopt that assessment as to the justification, under s32 for including the Extension Area within the TPLM Variation.
- 14.49 Since Mr Murray's initial assessment amendments have been made to the Extension Area and the proposed development in Sub-Area K, and AHFT's changes sought to Sub-Area A. We have set out above our specific s32AA assessment for those matters. One additional matter relates to our removal of MDR from the lower terrace. We have explained our reasons for that above and consider that LDR is the most appropriate zoning to achieve the objectives.

Finding and recommendation

- 14.50 For the reasons set out above we recommend that the Extension Area, along with the provisions as we have modified, should be included within the TPLM Variation. What has been proposed has changed through the process. While this is normal for planning processes (and is part of the reason of a Hearing process with exchange of evidence) we accept that it can be confusing for lay submitters (in this case the Further Submitters), even when they have expert and legal assistance.
- 14.51 We therefore accept the submission of AHFT in part and reject it in part. We reject the Further Submitter's submissions in so far as inclusion of the Extension Area be rejected but accept it in relation to the changes made in response to it. The Extension area has been extensively refined, including considerably in response to issues raised by the Further Submitters (see above) and in relation to those refinements we accept the submissions. For completeness, Mr Stalker's Further Submission that his land be removed from the Extension Area is accepted.
- 14.52 As set out above, while we have altered the planning provisions to reflect our recommendation, we do not have the ability to amend the Structure Plan. We ask that AHFT and the Council (ideally working together) amend that and the zone plan for us. We consider this to be a technical matter that fits within the scope of the draft decision.

⁴⁹⁷ Appendix 1.

Doolytle and Sons Limited (Doolytle)

14.53 The Doolytle submission⁴⁹⁸ sought that their land⁴⁹⁹ at the southern edge of the TPLM Site (opposite QCC and to the immediate north of Lake Hayes Estate on the eastern side of Howards Drive) be rezoned from the notified PDP Lower Density Suburban Residential Zone to, ideally, the TPLM Commercial Precinct Zoning or, if not, to PDP High Density Residential Zone.

The Doolytle position

14.54 The Doolytle position was canvassed in legal submissions.⁵⁰⁰ What is sought at the site are local / neighbourhood commercial activities for the immediate local catchment.⁵⁰¹ Counsel emphasised the view that a commercial zoning would fit within what he stated as being a 'commercial corridor' and that any risks of adverse effects on the primary TPLM commercial area were small.

14.55 We heard from Mr McFarlane (the Managing Director and sole shareholder of Doolytle) who also explained in both his summary and in discussions with us given Ms Hampson's concerns of competition, the nature of commercial activities sought as small scale and local, serving the immediate residential area.⁵⁰² He stated that his discussions with residents indicated there was high demand for the provision of such local activities. We also received evidence, and heard, from Mr Dunn, an expert planner on the benefits of integration benefits for the local community (including reduced car trips and the potential for connections to the existing bus route and nearby walking / cycling trails), responding to and integrating with the nature of development within the vicinity of the site, and that no large format commercial was proposed for the site. In his evidence Mr Dunn provided a s32AA evaluation for the changes sought by Doolytle.

14.56 We also discussed during the hearing the potential benefits associated with the adjacent proposed Open Space zone and being able to accommodate potential commercial demand, at a local scale, in relation to that area, especially in relation to linkage to Lake Hayes Estate and Shotover Country.

The Council's position

14.57 In his s42A Report, Mr Brown, relying on concerns raised by Ms Hampson in relation to adverse commercial (retail) economic effects of an additional (Doolytle) commercial precinct on the main proposed commercial precinct and Mr Dun (not to be confused with Mr Dunn for the Doolytle) on the pattern of residential development recommended that the zoning changes sought be rejected.⁵⁰³ Mr Brown, in his Reply s42A Report, and relying on the support of Ms Hampton, Mr Dunn and Mr Shields, supported the land being rezoned to PDP HDRZ with a height limit of 12m and with recommended transport infrastructure in place.

⁴⁹⁸ Submitter 81.

⁴⁹⁹ Lot 2 DP 536321 and Lot 403 DP 322452.

⁵⁰⁰ Dated 4 December 2023 (but presented on 7 December 2023).

⁵⁰¹ At [6] and [11].

⁵⁰² See Mr McFarlane's Summary, of 7 December 2023, on the Website, at [11].

⁵⁰³ At page 158.

- 14.58 Through the Hearing process, and in her reply,⁵⁰⁴ Ms Hampson remained of the opinion that the land should not be TPLM Commercial Zone. That also reflects the Economics JWS.⁵⁰⁵ But, following our discussion during of the Hearing of the potential for a 'lesser' commercial zone, such as a neighbourhood centre, then she considers that if we are so minded that the PDP Local Shopping Centre Zone (**LSCZ**) is more appropriate than the TPLM Commercial Zone. That is because it will not have the same potential effects on the primary TPLM commercial precinct, it reflects the centre hierarchy, and it is more 'in-tune' with the surrounding development.
- 14.59 Ms Hampson helpfully set out some similarities and differences between the TPLM Zone in her reply statement.⁵⁰⁶ In particular, service stations are permitted.
- 14.60 Mr Dun in his evidence referred to Ms Hampson's evidence (and the JWS) and maintained his opinion that the site is not a logical extension of the primary TPLM commercial centre. Mr Dun in his rebuttal evidence supported the use of the land for higher density residential noting "the site is well located to support the nearby town centre, sports hub, potential high school and public transport."⁵⁰⁷
- 14.61 Mr Shields in supporting the PDP HDRZ, considered in his Response Statement⁵⁰⁸ that certain transport infrastructure should be required to be in place before development of the site. These are addressed in Section 12 above.

Discussion

- 14.62 We agree, for the reasons provided by Ms Hampson and Mr Dun, that the Doolytle site is not appropriate for TPLM commercial zoning, nor, at that such zoning is a logical extension of the commercial precinct.
- 14.63 However, we consider that neighbourhood scale commercial development is appropriate on the Doolytle site. On that basis we agree with Ms Hampson that PDP LSCZ zoning is more appropriate than TPLM commercial and it also reflects the local/neighbourhood level of service addressed on behalf of Doolytle. We agree with Mr Dunn that it will provide integration benefits and be of convenience, as also explained by Mr Ferguson, for the immediate residential neighbourhood. The location of the site as explained by Mr Dun in his rebuttal evidence also, in our opinion, supports the PDP LSCZ. Given its location it would provide an efficient link and, at the local scale, rather than competing with the TPLM commercial precinct provide some degree of difference.
- 14.64 We also consider that utilising the PDP commercial hierarchy better integrates with the wider District retail and commercial offering than trying to amend the bespoke TPLM provisions. However, we consider that a service station at the site is not appropriate and would compete with that enabled in the TPLM commercial precinct. Ms Hampson has provided evidence on the provision of a petrol station within the TPLM zone. Combined with a supermarket we consider that a single petrol station within the TPLM site is required to stimulate and support the development of that area and the surrounding

⁵⁰⁴ Dated 16 January 2024, at [22].

⁵⁰⁵ At section B.

⁵⁰⁶ At [25] and [26], noting it is not comprehensive.

⁵⁰⁷ At [49].

⁵⁰⁸ At [40].

housing (which is the primary focus for the TPLM Variation). Elsewhere within the TPLM Zoning petrol stations are prohibited and we consider that is the appropriate response (see Section 13).

- 14.65 Beyond the matter of petrol stations and having reviewed the provisions of the PDP LSCZ we consider that the zone, as related to the rest of the District, should apply. We realise that there are, as alluded to by Ms Hampson, differences with the TPLM commercial zone but we are comfortable they are appropriate and agree the difference provides some 'point of difference' as Ms Hampson stated.⁵⁰⁹ We also realise that some of the elements of the PDP LSCZ zoning is more restrictive on matters such as height limits.⁵¹⁰
- 14.66 We have addressed issues of scope in Section 5 above and agree with the Reply Legal Submissions for the Council⁵¹¹ that the boundary of the scope is set by the TPLM Commercial Precinct zoning such that zoning more restrictive than that can also be considered.
- 14.67 We have carefully considered Mr Shield's proposed transport requirements (noting they relate to high density use of the land) and addressed them in Section 12. However, given the evidence presented by the submitter in relation to the benefits of the site providing a link between commercial activities to both sides of SH6, we consider these transport infrastructure requirements to be equally applicable to our recommended zoning. This is also on the basis that, as Mr Shields considered, if it is necessary to connect residential development on this site to commercial development and transport systems, then it must be equally applicable in reverse, ensuring the residents can access the local shopping opportunities proposed.
- 14.68 In relation to s32AA, we have an assessment by Mr Brown in relation to high density residential and an assessment by Mr Dunn related to TPLM commercial. They address matters such as the location of the site, its linkages and that the notified lower density zoning did meet the purpose of the TPLM Variation, was inefficient and not the most appropriate way to meet the objectives. We rely on those assessments in relation to the change of zoning (that the notified zone is not appropriate). That then leaves our recommended LSCZ to be considered.
- 14.69 In relation to s 32AA, we consider that the PDP LSCZ is:
- (a) The most appropriate way to achieve the purpose of Act as it will provide for an efficient use of resources and encourage more active modes of transport.
 - (b) The most appropriate way to achieve Objective 15.2.1 of Chapter 15 of the PDP as it will provide a focal point for a range of commercial activities, at a limited supplementary small local scale, that help to meet the day to day needs of the Lake Hayes Estate and Shotover Country residents.

⁵⁰⁹ In her Response Statement, at [29].

⁵¹⁰ However, the PDP LSCZ zoning allows for resource consents as a non-complying activity for heights beyond 10m and minor height infringements are considered where they help achieve higher quality design outcomes and do not significantly adversely affect amenity values. See Rule 15.5.7 and Policy 15.2.2.3.

⁵¹¹ At [96].

- (c) Consistent with the objectives of the TPLM Variation, including by creating a more self-sustaining community and a potentially broader range of commercial activities.

Finding and recommendation

14.70 For the reasons set out above we recommend to the Minister that the Doolytle site be zoned PDP LSCZ. We therefore accept the Doolytle submission in part and reject it in part.

Koko Ridge and Corona Trust

14.71 Koko Ridge is the name of an existing subdivision and development in the southwest corner of the TPLM Site. It has an extensive development history summarised in the submission of Koko Ridge Limited⁵¹² and of Mr T Allan,⁵¹³ and in the s42A Report (including forming part of the earlier Laurel Hills SHA (see above)). Its existing zoning is Large Lot Residential A and as notified by the TPLM Variation it is TPLM LDR Precinct (Sub Area H2). It is presently consented to deliver 37 lots in two stages with each lot size approximately 2,000m².

14.72 Koko Ridge and Mr T Allan sought that greater density be provided either by having no maximum residential density standard or better enabling intensification (through reduced standards).

14.73 Corona Trust⁵¹⁴ sought that Sub area H2 be removed from the TPLM Variation or that effects on its land are addressed through amendments to the provisions (in particular setbacks). Mr Stiven⁵¹⁵ also opposed inclusion of Sub Area H2 within the TPLM Variation.

14.74 Two key issues arise in relation to this submission:

- (a) the appropriate density (and hence number of allotments) of the site; and
- (b) the potential effects on the Corona Trust Property to the south.

14.75 We address these two matters in turn and then they are discussed jointly.

Zoning – greater density

14.76 Mr Brown in his s42A Report, relying on Mr Shields' position⁵¹⁶ that the density limits are necessary given the distance of the site to community facilities and bus stops, considered that the zoning should remain as notified.⁵¹⁷ However, Mr Brown did consider that changes be made removing references to the transport infrastructure upgrades apart from the active travel links.

14.77 Mr Devlin expert planner for Koko Ridge and Mr T Allan presented evidence seeking greater density for the site and greater flexibility for its development. Mr Giddens, expert

⁵¹² Submitter 80. Noting this was a submission combined with Mr W Foley. Both also filed further submissions 130 and 131.

⁵¹³ Submitter 103. Mr T Allan also made a further submission (131 opposing the submission of Corona Trust). Mr T Allan's evidence also canvassed the history of development at the site.

⁵¹⁴ Submitter 99.

⁵¹⁵ Submitter 65.

⁵¹⁶ Statement of Evidence of Mr Shields at [66].

⁵¹⁷ At [12.31].

planner for Corona Trust, addressed the issue of increased density focused on its potential effects on his client's land (which is addressed below).

- 14.78 In his Rebuttal Evidence, Mr Brown responded to concerns raised over the calculation of the number of lots potentially enabled (agreeing with Mr Devlin and Mr T Allan) and considered that 108 lots should be enabled in sub area H2.⁵¹⁸ This change also reflected the proximity of the site to future bus stops and that the Council has included bus priority on Stalker Road in its 'Minor Improvements Programme'. Mr Brown also agreed with Mr Devlin to 'grandfather' the existing PDP LLR(A) Zones bulk and location controls, so that they apply to new development on the existing or consented lots over 2,000m².
- 14.79 During the Hearing we discussed at some length the rationale for low density residential zoning on the Koko Ridge site given the nature and location of the site, the basis for the TPLM Variation, and its purpose. We therefore asked Mr Devlin to prepare potential provisions should we decide to increase the density of housing enabled in Sub Area H2. On 15 December 2023, Mr Devlin provided proposed zone provision amendments for Sub Area H2 to deliver greater density (accompanied with a s32AA evaluation).
- 14.80 In his Response Statement⁵¹⁹ Mr Lowe responded to the amendments provided by Mr Devlin. In relation to density issues:
- (a) Mr Lowe supported greater density but recognises the greater potential effects such that he proposed several amendments:
 - (i) That building setback be 12m;
 - (ii) That the cadastral boundary be used as it is definitive and exact;
 - (iii) Additional controls for zero-lot typologies; and
 - (iv) Include a more prescriptive landscape buffer.
 - (b) Mr Lowe sought, given the increase in residents needing walking access to the SH6 bus stops, that an additional site access point onto the verge of SH6 (Access B) be provided.⁵²⁰
- 14.81 In his Reply s42A Report, Mr Brown accepted greater density for the site but proposed various amendments to Mr Devlin's drafting. Given the increased density enabled by the proposed zoning changes, Mr Brown (relying on Mr Shields' updated provisions) considered that the transport requirements should be reinstated over Sub Area H2.⁵²¹ Mr Shields', having rerun the Sidra model for the SH6/Stalker road intersection for the increase from 108 to 140 dwellings on Sub Area H2, recommended that the Stalker Road bus lane be implemented prior to development to provide improved reliability and journey times for buses. Overall, Mr Shields recommended that the Stalker Road priority lane, the relevant SH6 NZUP works (west and east) and reinstatement of bus stops to the west of the Stalker Road intersection, on SH6 be completed.⁵²² He also agreed with Mr

⁵¹⁸ At [113].

⁵¹⁹ Dated 26 January 202.

⁵²⁰ Also supported by Mr Shields in his Response Statement.

⁵²¹ At [18.19]. Noting that at [18.20] the link to the Active Travel Link is not supported.

⁵²² At [34].

Lowe's Response Statement that changes occur to the active travel links to better link H2 to the SH6 bus stops.

- 14.82 In response to the Reply s42A Report, counsel for Koko Ridge filed a further memorandum⁵²³ raising several issues, including disagreement (both in terms of natural justice and on the evidence) that the transport requirements should be reimposed over Sub Area H2 (and the vires of such provisions as drafted).

Corona Trust (Submitter 99)

- 14.83 This submission led to a lot of evidence, questions from the submitters, and material being provided, much of which went beyond what was necessary. While there appears to have been a lengthy history between the submitters⁵²⁴ our focus is simply what controls (if any) are required on Sub Area H2 to avoid or mitigate adverse effects on the Corona Trust land. We note that there appear to be many covenants over the Koko Ridge site in favour of Corona Trust. Those, while of course restrictions through property law on the use of the land, do not limit our ability to accept, if we consider it appropriate, different planning controls. It is simply that if those controls are more lenient than the covenant they cannot be implemented unless the covenant is lifted.
- 14.84 In his s42A Report Mr Brown rejected the primary submission that Sub Area H2 be removed from the TPLM Variation⁵²⁵ as sought by Corona Trust on the basis that the proposed rezoning will enable the efficient use of the land and the notified zone to be more appropriate. Mr Brown did however consider that provisions were required to manage potential adverse effects.
- 14.85 Mr Giddens for Corona Trust, relying on the evidence of Ms Moginie, provided evidence that development on Koko Ridge provide a 20m setback from the southern boundary of Sub Area H2 adjoining the Corona Trust land and a building height of 5.5m over Sub Area H2.⁵²⁶ This was based on effects and in particular the application of Policy 49.2.7.8.⁵²⁷
- 14.86 Mr T Allan also provided considerable evidence in relation to the setback issue.
- 14.87 Ms Moginie provided expert landscape evidence for Corona Trust and Mr Compton-Moen provided expert landscape and urban design evidence for Koko Ridge. Both provided evidence on visuals as to the extent of setback to mitigate effects they considered necessary, and the reasons for them. This resulted very different outcomes being pursued and in a lot of positioning through evidence, questions and the Hearing we have carefully considered the evidence both have provided.
- 14.88 Mr Devlin, relying on the evidence of Mr Compton-Moen, supported a 4m setback from the escarpment edge⁵²⁸ and a height limit of 8m (5.5m due to the covenant) to be

⁵²³ Dated 2 February 2024, corrected version. Supplied to the Hearing Panel on 8 February.

⁵²⁴ Corona Trust and its experts failed to attend the Hearing at the allocated time and without notice. We addressed that issue during the Hearing. Ultimately, while Corona Trust did not present we have read all the material provided and visited to the front of their driveway (along Max's Way) and viewed their property during our site visit to the Koko Ridge land looked down the escarpment to its land.

⁵²⁵ At [12.45].

⁵²⁶ At [27].

⁵²⁷ The objective and policies Mr Giddens consider to be in play are listed at [35] of his evidence.

⁵²⁸ Mr Devlin recognised though that the cadastral boundary provides easier plan administration.

appropriate.⁵²⁹ If the distance was from the cadastral boundary, relying on Mr Compton-Moen he considered a 2m setback to be appropriate. In Mr Devlin's opinion a large setback is an inefficient use of land and an unreasonable protection of amenity values in an urban environment. We tested the issue of setbacks directly with Mr Compton-Moen during the Hearing.

- 14.89 In his rebuttal evidence Mr Brown considered that a building setback of 4m and a height limit of 5.5m within 20m of the southern boundary (measured from the property boundary and not the edge of the escarpment) to be appropriate.⁵³⁰ He also considered, based on the scope of the Corona Trust submission, that the setback extend along the entire Sub Area H2 boundary. Mr Brown raised concern (which he left open) as to potential development on the terrace escarpment itself. Finally, Mr Brown considered managing the effect of more dwellings located on the terrace above the Corona Trust property and, relying on Mr Lowe, that a minimum lot width was required to manage such effects.⁵³¹
- 14.90 While Mr Giddens and Mr Boyd for Corona Trust did not appear at the Hearing, they did provide us with written summary statements. Mr Boyd explained his family's connection to and intended use of the land and wish not to be inappropriately overlooked. He considered a setback of 15-20m would make a positive difference. Mr Giddens' summary reflected his evidence and focused on loss of privacy and visual dominance and provided some suggested drafting amendments, including landscaping and fencing.
- 14.91 In his Response Statement⁵³² Mr Lowe responded to the amendments provided by Mr Devlin in December 2023. In relation to the Corona Trust setback issues
- (a) The proposed 6m LDR precinct beyond which a denser development of 200m² applies could create an undeveloped area exposing views through to the dense development. His concern is significantly more (potentially up to 20) zero-lot houses could front and overlook Corona Trust's land, reducing privacy and a notable departure from the presently enabled development. Mr Lowe referred to Mr T Allan's diagram drawn during the Hearing resulting in an equal total 'clear' area between dwellings. That figure contained 2m side setback boundaries between each building.
 - (b) Mr Lowe considered his 25m minimum lot width adjoining the Corona Trust boundary remains the "fairest outcome".⁵³³
 - (c) Mr Lowe supports greater density but recognises the greater potential effects such that he proposed several amendments as set out above.
- 14.92 The key issue raised in the Reply s42A Report with the 15 December 2023 provisions drafted by Mr Devlin related to minimum building setbacks for lots fronting Corona Trust's land. Mr Brown's approach relied on Mr Lowe's reply evidence⁵³⁴ which itself reflected a diagram of the potential buildings fronting the escarpment fronting the Corona Trust land

⁵²⁹ Summary Statement, page 2.

⁵³⁰ At [220] and [221].

⁵³¹ At [127].

⁵³² Dated 26 January 202.

⁵³³ At [18(a)].

⁵³⁴ A [17].

drawn by Mr T Allan during the Hearing (with the urban design importance of the spaces between dwellings also being raised by Mr Lowe). The concern was that the provisions as drafted by Mr Devlin would enable a row of joined houses 6m from the Corona Trust boundary. Mr Brown did not consider that met Policy 49.2.7.8 or the new proposed Policy 49.2.7.X (the X reflects the draft provision number requested).

- 14.93 As mentioned above, in response to the Reply s42A Report, counsel for Koko Ridge filed a further memorandum. That memorandum raised several issues relevant to density.

Discussion

- 14.94 We agree with the reasons provided by Mr Brown and Mr Devlin that residential development of Sub Area H2 can be accommodated as proposed in the TPLM Variation as notified.
- 14.95 We consider that the zoning over Sub Area H2 should enable greater density development than the provisions as notified (and adopt the reasons provided by Mr Devlin, Mr T Allan and Mr Brown in that regard). The area is well located, and the present development is, in our opinion, an inefficient use of a valuable land resource, such that the notified rezoning is inefficient and fails to deliver the purpose of the TPLM Variation.
- 14.96 We also agree with Mr Lowe's Response Statement supporting more dwellings on Sub Area H2 but being clear that that needs to be balanced with effects on the Corona Trust land (and other properties to the south). The level of, and potential for, such effects is a critical issue in contention. With greater density comes the need to ensure that the associated potential adverse effects are appropriately managed, giving effect to the NPS-UD, including having particular regard to Policy 6, and applying Policy 49.2.7.8. We were provided with many illustrations and diagrams of views and angles for setbacks and the visual intrusion of dwellings from the experts. That evidence, and our site visits, confirmed to us the need to ensure that potential adverse effects on the Corona Trust property require a planning response, and we agree to that extent (noting the key differences in our findings below) with the evidence of Mr Giddens.
- 14.97 As mentioned above Mr Gidden's raised the issue of planting within the building setback from the southern boundary and fencing along that boundary. We have explained our position on fencing in relation to Rule 49.5.14E below. In relation to landscape planting, it was a matter raised in Mr Compton-Moen's evidence⁵³⁵ and which we discussed with him during the Hearing. While we were initially attracted to landscape planting, during our site visit we saw how, if there were additional concerns held by Mr Boyd and his family, there was ample opportunity for him to undertake planting on his land. We therefore do not consider it effective or efficient to require landscape planting within the setback area.
- 14.98 In light of this overall position, we step through the changes proposed by Mr Devlin (and the response from Mr Brown) with our findings below:

⁵³⁵ At Annexure 1, page 3.

- (a) A new Policy 49.2.7.X proposed by Mr Devlin was supported in part by Mr Brown who amended it to flow better from the preceding policy. Following our suggested changes to Policy 49.2.7.8, deleting reference to a "low density suburban character" (see above), we do not consider it either efficient or effective to add a Sub Area H2 specific policy. Rather, with this change, the proposed policy become duplicative and unnecessary and is not the most appropriate way to achieve the objectives. We therefore do not accept that new Policy 49.2.7.X achieves the requirements of s32AA evaluation.
- (b) Rule 49.4.5: We agree with Mr Devlin's additional drafting (also agreed to by Mr Brown) grandfathering RVA on sites that remain Large Lot Residential (A) Zone (**LLR(A) Zone**) density and adopt the s32AA evaluations provided by both.
- (c) Rule 49.5.1: We agree with Mr Devlin's additional drafting (also agreed to by Mr Brown) allowing some (those that utilise 0m setbacks in contiguous ownership) lot sizes down to 200m² and adopt the s32AA evaluations provided by both.
- (d) Rule 49.5.2: Based on the evidence of Mr Compton-Moen, we agree with Mr Devlin that the building height limit should be 8m. We acknowledge that there is an existing covenant over the Koko Ridge land limiting height to 5.5m (such that the 8m is not practically relevant) but accept from a planning perspective that the standard 8m is appropriate. We accept Mr Devlin's s32AA evaluation in relation to that. We acknowledge (as addressed below) that effects on Corona Ridge must be appropriately mitigated. We consider that appropriately occurs by the proposed building setbacks below.
- (e) Rule 49.5.3: We accept the building coverage provisions as proposed by Mr Devlin (and accepted by Mr Brown (as provided in Rule 49.5.14C) and adopt the s32AA evaluations provided by both.
- (f) Rule 49.5.5: We agree with Mr Devlin's additional drafting, as amended by Mr Brown,⁵³⁶ and adopt the s32AA evaluations provided by both.
- (g) Rule 49.5.6: We consider:
 - (i) That 0m setbacks from sites in contiguous ownership is appropriate, except for (ii).
 - (ii) For buildings within 10m the southern escarpment:
 - (1) A 2m side boundary setback (in line with Mr T Allan's drawing at the Hearing and the Reply Statement of Mr Lowe) is required to enable breaks in the line of dwellings. But we do not consider this is required along the whole boundary, rather that part where any building is located within 10m of the top of southern escarpment. This, with the provisions below, will require a minimum 4m wide and 4m deep recess along any built form façade, which occurs behind the further 6m building setback, reducing their visual

⁵³⁶ Reply s42A Report at [18.10].

dominance and avoiding a fully built frontage. and We rely on Mr Brown's s32AA assessment in relation to this setback.

- (2) A 6m setback from the top of the southern escarpment⁵³⁷ as of 1 March 2024. We heard extensive evidence as to what the setback should be. From reviewing the evidence, and our site visit, we consider that this distance appropriately reduces the visual dominance of the dwelling and potential effects when viewed from the terrace below. We recognise that it comes as a cost in relation to developable land. We also recognise that it is further than the 4m from the top of the escarpment sought by the Koko Ridge team. However, it is less than some of the other distances being proposed (including on behalf of Corona Trust) and we have not excluded 0m setbacks so long as they do not occur within 10m of the top of the escarpment which, if utilised, will enable greater development. We therefore consider a 6m building setback from the top of the escarpment to be efficient and effective, especially when combined with our overall setback approach, and the most appropriate way to achieve the objectives.
- (3) Using the top of the escarpment edge reflects Mr Devlin's evidence and while using the boundary to measure from has several benefits as set out by Mr Brown in this case where the boundary does not follow the escarpment using the boundary as the measure does not relate to the effect being managed (and boundaries can change during subdivision). We have included a date for the top of the escarpment to be assessed on and a requirement for a survey, so its location is certain now and into the future. We recognise that there is a cost involved but the survey will then reduce the potential for uncertainties to arise. Therefore, we consider using the escarpment edge as the measure rather than the property boundary to be a more efficient and effective method and the most appropriate way to achieve the objectives.
- (4) A 2m building setback from the southern boundary of Sub Area H2. Given the line of the boundary, this will apply especially to those properties at the western end of the escarpment. For those properties it may push buildings slightly further back from the top of the southern escarpment. Having listened to the evidence we consider that this is the minimum distance to allow landscaping in front of a dwelling (and hence softening visual effects). Therefore,

⁵³⁷ We agree with Mr Brown, and Mr Devlin, that from the cadastral boundary creates greater planning certainty. If the setback only applied to the Koko Ridge land abutting the Corona Trust property we would have solely applied a cadastral boundary setback. But such an approach does not work, in terms of managing the effects we are concerned about, to properties where the boundary adjoins Max's Way at the foot of the escarpment.

we consider this rule to be effective and efficient and the most appropriate way to achieve the objectives.

- (5) These setbacks do not apply to any residential units on sites greater than 2000m² within Sub Area H2 where the setbacks in the LLR(A) Zone shall apply. This applies the grandfathering approach above which, as some lots have already been sold and developed, we consider to be efficient and appropriate.
- (6) Mr Devlin sought the deletion of the minimum setback of 4m from the southern boundary in Rule 49.5.6.4. Mr Brown has sought its retention as it reflects the existing LLR(A) Zoning. Given our amendments above we consider that this provision is duplicative and can be deleted; we adopt Mr Delvin's s32AA evaluation.
- (7) In relation to the exemptions:
 - A. In relation to exception (b), we do not consider that accessory buildings should be enabled in the southern setback areas from the top of the escarpment for the same amenity and dominance reasons given above. The reasons for our 6m setback are provided above. We do not consider accessory buildings are appropriate within the escarpment setback for the same reasons.
 - B. We agree with Mr Devlin and Mr Brown that the storage of an object greater than 1.5m high fronting the southern boundary should be managed (to again avoid amenity / dominance effects). We consider that this provision should apply to the same southern boundary setback provision we have applied above).
 - C. In relation to common and party walls, Mr Brown modified the drafting of Mr Devlin and we agree with Mr Brown that it needs to be explicit that this does not apply where Rule 49.5.6.5 (see (2) above) applies.
- (h) Rule 49.5.10: We have set out in Section 12 the importance of the staging of development with the upgrades to transport infrastructure. We recognise that through the process the provisions were agreed to be removed from Sub Area H2. That reflected the lower density of the proposed development in the sub area at that time. As addressed above matters have moved on and greater density in Sub Area H2 is now proposed. Therefore, we consider:
 - (i) It reasonable for the Council, in reply, to consider reimposing the transport requirements.⁵³⁸ As Mr Brown states the enhanced density is effectively

⁵³⁸ And not, as raised by counsel for Koko Ridge, in her memorandum of counsel dated 2 February 2024 (corrected) unfair or prejudicial on Koko Ridge, at [3].

medium density⁵³⁹ and we are in no doubt, as explained in Section 12, that the necessary transport infrastructure needs to be in place.

- (ii) That the method proposed by the Council (Rule 49.5.10) while novel is not ultra vires.⁵⁴⁰ The planners agreed to a trigger based on occupation being developed.⁵⁴¹ No party apart from Koko Ridge raised an issue with this approach. While we address this matter in Section 13, the Council's approach reflects, and responds to, in our view, a clear and adverse environmental effect (traffic) that needs to be appropriately mitigated. That effect does relate to the occupation of buildings (as that enables people to live at the site and hence drive). In relation to Koko Ridge, we propose, as set out in Section 12, given the existing subdivision and on-going sale of the site, to adopt a different, site-specific approach, to its application (whereby the transport requirements do not apply until greater than 108 lots have been created as set out below). We consider that this change appropriately addresses the provision in relation to Koko Ridge, is appropriate and is not ultra vires. While our draft report was released for minor and technical (including legal) comments we did not receive any legal comments on the approach applied in relation to this matter.
- (iii) That in relation to Sub Area H2, as discussed in Section 12, as this site has been subdivided and some lots are sold with the rest for sale, unnecessarily delaying greater density while transport works are completed will, in our view, result in this case in inefficient use of the land and the cost of a reduced number of dwellings. We do however consider that if Sub Area H2 is fully built out as enabled that will have an adverse traffic effect (relying on Mr Shields). Counsel for Koko Ridge provided an alternative solution of not imposing the traffic requirements in Rule 49.5.10 to development in Sub Area H2 up to and including 108 allotments. Above 108 allotments the Rule will apply. We consider that that is an efficient and effective approach that it most appropriately responds to Objective 49.2.6 and its policies in the context of the existing development on Sub Area H2 and the concerns raised by Mr Shields. We have amended Rule 49.5.10 accordingly.
- (i) Rule 49.5.11: We accept the approach of both Mr Devlin and Mr Brown to increase the unit number (and hence density) in Sub Area H2, but do not consider that there should be a cap on the number of units. We consider that if effects are appropriately mitigated, which through the provisions we have proposed we consider they are, then having a cap provides for an inefficient outcome of valuable land for housing such that it is not the most appropriate way to achieve the objectives and policies (and s32 of the RMA).

⁵³⁹ Reply s42A Report, at [18.18].

⁵⁴⁰ As raised by counsel for Koko Ridge, in her memorandum of counsel dated 2 February 2024 (corrected) at [3.3.2].

⁵⁴¹ Planning JWS 3rd November (for conferencing on Thursday 2 November) at 3.

- (j) Rule 49.5.14A (RVA): We accept the drafting by Mr Devlin and agreed to by Mr Brown (with a very minor amendment) and we adopt the s32AA evaluation provided by both.
- (k) Rule 49.5.14B ((LLR(A) Zone grandfathering): We accept the drafting by Mr Devlin and agreed to by Mr Brown and we adopt the s32AA evaluations provided by both.
- (l) Rule 49.5.14C (MDR rules adopted): We accept the drafting by Mr Devlin and agreed to by Mr Brown and we adopt the s32AA evaluations provided by both.
- (m) Rule 49.5.14E (Fences): We accept in part the rule provision of Mr Giddens related to fencing on the southern boundary of Sub Area H2 as most appropriate to achieve objective 49.2.7 and policy 49.2.7.8. We accept that there should not be a solid fence or a wall but we do not consider it efficient or effective to stipulate the type of fence (as post and rail). We also do not consider that breach should result in a discretionary activity status and consider that restricted discretionary is most appropriate.
- (n) Rule 49.5.18 (transport requirements): As above we consider that such a rule is appropriate but beyond the active transport link to the SH6 Stalker Road southern bus stop, it will only apply to Sub Area H2 for allotments over 108.
- (o) Rule 27.6: For the reasons above, we accept Mr Brown's drafting⁵⁴² and his s32AA evaluation. Smaller lot sizes in Sub Area H2 apply when the 0m setbacks occur, appropriately maximising the use of the land. However, within 10m of the top of the southern escarpment having 0m side setbacks are inappropriate to address potential effects on Corona Trust (and other owners below the escarpment).
- (p) Rule 27.7.30: We accept the deletion by Mr Devlin and agreed to by Mr Brown and we adopt the s32AA evaluations provided by both.

14.99 One matter raised by Mr Brown in his Rebuttal Evidence⁵⁴³ and in his Reply s42A Report,⁵⁴⁴ is avoiding development on the steep southern escarpment within Sub Area H2. We carefully looked at the escarpment during our site visits and agree that the landform feature within Sub Area H2 should not be built on. As Mr Brown stated such development could lead to poor and unanticipated urban design outcomes and adverse effects on landowners on the lower terrace. We agree with Mr Brown's proposed Rule 49.4.38C and adopt his s32AA evaluation and consider that it is efficient and effective and will most appropriately address the policies above.

14.100 Finally, issues arise from the Structure Plan and the proposed additional Access B, as shown in the Structure Plan. Through the Hearing the location of the active transport link from Sub Area H2 to the SH6 bus stops had been shown further west (Access A). We walked that area during our site visit. The use of Access A matches the present

⁵⁴² Reply s42A Report at [18.24].

⁵⁴³ At [124] – [126].

⁵⁴⁴ At [18.27].

subdivision of the area. We recognise that Access B would provide a shorter route⁵⁴⁵ but consider the two existing routes appropriate (noting that the blue route shown by Mr Lowe could also access bus stops on Stalker Road). Access B does not match the present subdivision. It would require resurveying the present arrangement and would also require either a steep climb and/or a cut through the earth bund. Mr T Allan also addressed how they were not consulted on this proposed change. While we recognise the time savings and considered potential options to require the access if greater development occurred, we did not consider that in the context of this site's development that requiring Access B to be a more efficient and effective method to achieve the objectives. Therefore, we ask the Council to remove Access B from the Structure Plan and replace it with the Access A on the Structure Plan attached to their responses to this draft.

Finding and recommendation

14.101 We recommend to the Minister that Sub Area H2 is retained within the TPLM Variation, but the density is increased to enable greater housing development. As a result of that density increase additional measures are required to appropriately address adverse effects (in particular on Corona Trust and transport matters). We set out all our changes, and our section s32AA evaluations above.

14.102 Therefore, the submissions of Koko Ridge and Mr T Allan are accepted in part (and otherwise rejected), the submission of Corona Ridge is accepted in part (and otherwise rejected) and the submission of Mr Stiven is rejected.

Mr and Mrs Dobb

14.103 In their submission Mr and Mrs Dobb⁵⁴⁶ sought (in addition to inclusion within the TPLM Variation across their upper terrace which is addressed above) the rezoning from rural to MDR or the rezoning of both terraces to PDP low density suburban residential.

14.104 Mr Brown in his s42A Report rejected the request in relation to the upper terrace based on the evidence of Mr Dun and Mr Skelton. Mr Brown accepted that the rural zoning of the lower terrace with the dwelling appears to be an anomaly that should have been fixed during the PDP. In his Rebuttal Evidence Mr Brown commented on the likelihood that the eastern roundabout would move east affecting the Dobb property to a greater extent than previously.

14.105 Mr Dun's evidence is that using the upper terrace for housing is inconsistent with the desired larger southern setbacks from SH6, open amenity areas and views to the Remarkables.⁵⁴⁷ Mr Skelton, in relation to rezoning the upper terrace did not support it on the basis of it being part of an open character area and retain was necessary to ensure an open approach to Queenstown and that valued views were maintained.⁵⁴⁸

⁵⁴⁵ As illustrated by Mr Lowe in his Response Statement.

⁵⁴⁶ Submitter 37.

⁵⁴⁷ Statement of evidence at [99] and [100].

⁵⁴⁸ Rebuttal Statement at [36].

14.106 Mr Delvin's evidence (for the Dobbs) clarified the focus on the upper terrace (some 4,000m²⁵⁴⁹) and addressed all the relevant matters. He recognised that any increase in housing would be minimal but concluded that rezoning would help achieve the objectives of the plan, and provide for an efficient use of the land.⁵⁵⁰ In doing so it, in his opinion, "better achieves the purpose of the RMA, the NPS-UD and the plan change objectives."⁵⁵¹

14.107 Put simply, we do not consider that rural zoning is appropriate for this site, which is now within the TPLM Variation. We focused on the 'gateway' concept extensively through the Hearing and have discussed it above. In our view the gateway is one of an urban environment first and foremost. We accept that environment needs to be of high quality but do not consider that rural zoning is required to achieve that. Rather, we consider that quality urban development, at a low-density scale, at this location is suitable. The Dobb upper terrace is now within the TPLM Variation. It is adjacent to the MDR zoning to the north. We have discussed below where the experts got to on the QCC setback, and bringing that down to 25m, which is what the Dobb's have sought. We do not consider that housing, especially low density, on the terrace would unreasonably restrict view of the Remarkables (especially given the existing trees⁵⁵²) nor, given the scale, affect the sense of openness.

14.108 In his evidence Mr Devlin set out the relief to be the rezoning, if it was PDP Low Density Suburban Residential, to cover the whole of the Dobb's property. Given the anomaly of the zoning, and that the lower terrace is within the Lake Hayes Estate, we agree and accept that outcome. Given the nature of the Site, as set out in Section 13 (that a public walkway crosses it on the lower terrace (before ascending up to SH6), and that the land surrounding it is of the same zoning as we propose), we do not see any issues with the rezoning occurring and consider it to be efficient and effective. For completeness, we consider that this area be Precinct G2 and tied to the Precinct G transport infrastructure requirements as set out in Section 12.

14.109 In relation to s32AA we consider, relying on the evidence of Mr Devlin, that the PDP zoning is the most appropriate way to achieve the purpose of the TPLM variation and its objectives, that it will provide efficient use of land and that the adverse effects can be appropriately managed. Given the limited amount of housing that can occur, we do not consider any transport staging measures to be relevant to this site.

14.110 For completeness, if Mr Brown⁵⁵³ is right that if the eastern roundabout shifts further onto the Dobb's upper terrace, the potential for housing on it may be significantly compromised (or never occur). But that potential outcome is not, in our opinion, reason to not apply what we consider to be the most appropriate zoning to the land.

⁵⁴⁹ Summary Statement of Mr and Mrs Dobb.

⁵⁵⁰ Mr and Mrs Dobb referred to "a small amount of housing" in their summary statement.

⁵⁵¹ Summary Statement of Mr Devlin.

⁵⁵² As shown in Figure 3 of Mr Devlin's Summary Statement.

⁵⁵³ In his Reply s42A Report at [17.4].

Finding and recommendation

14.111 We find that Mr and Mrs Dobb's site (both upper and lower terrace) should be rezoned PDP LDSR and recommend that change to the Minister. We accept the submission of Mr and Mrs Dobb in so far as it relates to low-density zoning and reject it in relation to medium-density zoning.

14.112 The Structure Plan (and it appears the UGB), and the Zoning Plan do not include the Dobb Property as PDP Low Density Suburban Residential (already shown elsewhere on the Structure Plan). The 25m BRA from the edge of SH6 also needs to be shown over the Dobb's land. We have set out in Section 13 that this is required and ask the Council team to please provide the updated plans (as a technical comment) with their draft comments.

Queenstown Country Club (QCC)

14.113 QCC⁵⁵⁴ made a submission opposing the rezoning on the basis it not suitably enable the ongoing development of the site, especially in relation to the 75m BRA.

14.114 In his s42A Report, Mr Brown rejected (relying in part on Mr Lowe and Mr Dun) the changes sought by QCC.

14.115 Mr Minhinnick, counsel for QCC, focused in his submissions on the reduced setback sought by his client stating that it "will promote efficient and cohesive development of the Te Pūtahi Ladies Mile area." For the reasons set out below,⁵⁵⁵ we agree.

14.116 QCC filed landscape evidence from Mr Bentley, urban design evidence from Ms Rennie and planning evidence from Mr Farrell. During the Hearing process (including conferencing) considerable progress was made among the experts, including:

- (a) A 25m BRA was accepted by the Council experts (with some provisions outside that area to retain views of the Remarkables and high-quality urban development). We agree that a 75m set back is inappropriate in relation to the purpose of TPLM Variation, and especially following the reduced SH6 speed limits and the urban design consequences of that (see above). We also agree that views of the Remarkables from SH6 will be adequately retained with the reduced setback.
- (b) The potential for closer development adjacent to the Howard's Drive intersection was also addressed and has been discussed in Section 13; ultimately we have concluded retaining a simple 25m BRA along the entire southern boundary.
- (c) It was agreed that a QCC specific policy was appropriate (but the drafting was not agreed).

14.117 On 21 December 2023, Mr Farrell provided supplementary evidence responding to our questions and request for redrafted provisions from the Hearing Panel. In his Reply

⁵⁵⁴ Submitter 106.

⁵⁵⁵ And at [5.1] of counsel's submissions.

s42A Report Mr Brown proposed some further amendments to the provisions provided by Mr Farrell, in particular:

- (a) He redrafted the proposed policy (7.2.1.8A) to simplify it. We prefer Mr Brown's final drafting.
- (b) He did not support building within the BRA such that, consistent with the PDP, it should remain a non-complying activity. We agree for the reasons Mr Brown provides.
- (c) He accepted greater density with the rule applying within 75m of SH6 and not 120m;
- (d) He deleted Mr Farrell's proposed new provisions (7.4.X.3) for development within 100m of the Howard Drive intersection on the basis that if the BRA is reduced at that location (as we have accepted above) then existing rule (7.2.4) is sufficient.

14.118 Having questioned the boundary of the Structure Plan over the QCC land we agree with Mr Brown⁵⁵⁶ that retaining part of the Structure Plan over the part of the QCC land to cover existing trees to be protected is appropriate and the boundary should run back from those trees.

14.119 Mr Farrell⁵⁵⁷ and Mr Brown provided s32AA evaluation for all the proposed amendments and we adopt them. We have made some very minor changes to the policy and consider that those provide greater clarity, and the policy is the most appropriate way to achieve the objective.

14.120 We accept that the TPLM Variation as notified should be amended to reflect QCC's submission and recommend that the provisions relating to the QCC land are amended as attached in **Appendix 1**. We accept QCC's submission in part, and reject its submission in part in line with our discussion above.

Shotover Country Limited

14.121 Shotover Country Limited⁵⁵⁸ sought that, in relation to Sub Area I (located on the southwestern corner of the Stalker Road roundabout) that the site be zoned either TPLM LDRZ or rezoned PDP LDSR, that the 75m BRA be reduced to 25m (as it covers a large amount of valuable land suitable for housing) and that Sub Area I be removed from Rule 49.5.11. Finally, some mapping errors, which have been fixed through the process, were raised.

14.122 In his s42A Report, Mr Brown explained the history of the development of the site (and its existing consented development) and supported retaining the site in the TPLM Variation and Rule 49.5.11 on the basis it would better manage effects (relying on Mr Shields⁵⁵⁹). He also supported, based on Mr Skelton, retention of the 75m BRA (consistent with QCC at that time). Mr Brown agreed to the removal of residential flats as non-complying and

⁵⁵⁶ Response Statement at [15.14].

⁵⁵⁷ In his Statement of Evidence

⁵⁵⁸ Submitter 46.

⁵⁵⁹ At [12.12].

the provision for service stations now allows one in the TPLM Site (in the commercial precinct).

14.123 In relation to the 75m BRA, we agree with Shotover Country Limited, for reasons explained above in relation to the SH6 corridor and QCC that a 75m BRA is inefficient and ineffective and that a 25m BRA is more appropriate. We also adopt the s32AA evaluations above for those matters.

14.124 We also agree with Shotover Country Limited that Sub-Area I be removed from Rule 49.5.11. The purpose of the TPLM Variation is to ensure the efficient use of land for housing. Given the TPLM LDR provisions, and the minimum lot sizes (noting they have reduced through the process) we do not think, in a s32AA evaluation, that additional controls are efficient or effective. Nor do we think they are most appropriate to achieve the objectives. Rather, they could inappropriately deliver an inefficient use of valuable land for housing; an outcome that would not achieve the purpose of the TPLM Variation. We recognise that this may deliver slightly more dwellings than having a cap, which could slightly increase traffic effects. The site is well located for public transport, and we do not consider that any additional transport staging controls (Rule 49.5.10) are required for such a minor change.

14.125 We recommend that the site be zone TPLM – LDR Precinct, the minor mapping errors be corrected, and that the BRA on the site be reduced to 25m and that Sub Area I be removed from Rule 49.5.11.

14.126 We accept the submission of Shotover Country Limited as set out above.

Caithness Developments Limited

14.127 This submission⁵⁶⁰ was very similar⁵⁶¹ to that of Shotover Country Limited addressed above. The key differences are the BRA is already 25m on this site (and is supported by the submitter) and two staged transport requirements (Rule 49.5.10) were challenged.

14.128 Mr Brown in his s42A Report accepted the removal of the two contested transport staging requirements. The other matters, were rejected in the same manner as for Shotover Country Limited.

14.129 We adopt our assessment as for Shotover Country Limited above.

14.130 We recommend that the site be zone TPLM – LDR Precinct and that Sub Area H1 be removed from Rule 49.5.11.

14.131 We accept the submission of Caithness Developments Limited as set out above.

⁵⁶⁰ Submitter 45.

⁵⁶¹ And prepared by the same planner.

Roman Catholic Bishop of Dunedin

- 14.132 This submission⁵⁶² concerned land at the far western end of the TPLM variation and sought that an overlay be applied to identify the site as an "education and place of worship activity area" and sought several changes to better allow for community activities within the MDR precinct.
- 14.133 In his s42A Report, Mr Brown rejected the overlay and provisions as he considered the provisions already accommodated what was being sought. Mr Dunn provided evidence, and a s32AA evaluation, on behalf of the Bishop and through the Hearing process all issues with Mr Brown were resolved. Counsel for the Bishop, Mr Leckie, supported the changes by Mr Brown in his rebuttal evidence (as did Mr Dunn in his Summary Statement).
- 14.134 During the Hearing we had an interesting discussion with Mr Leckie on the potential for a school at the site. We found the additional information he provided very useful as to a potential use at the site (and hence the nature of the western end of the TPLM Zone) and the provision of schooling generally (which is closely connected to transport issues).
- 14.135 We accept the changes made by Brown in response to Mr Dunn's evidence and recommend to the Minister that they be adopted.
- 14.136 The Bishop's submission is accepted in part (as to the agreed changes) and rejected in part.

Ladies Mile Pet Lodge

- 14.137 Ladies Mile Pet Lodge⁵⁶³ owns a core piece of land within the TPLM Variation. Its submission was focused on reverse sensitivity on its current operations and also on the amount of land proposed to be acquired to provide a pedestrian underpass (Crossing Curtilage Overlay).
- 14.138 In relation to reverse sensitivity, the evidence of K and R Lemaire-Sicre explained their use of the site, the lack of pet boarding facilities and their wish to continue operating for at least the medium term. Mr Brown in his s42A Report considered that the proposed TPLM Commercial Precinct noise and vibration rules, consents and covenants relating to the land, and its neighbours would be adequate to address reverse sensitivity effects.⁵⁶⁴ We agree. In relation to the underpass, the change of approach to the signalisation of the Howards Drive intersection resolved this issue with Mr Freeman and Mr Brown agreeing to the removal of the Crossing Curtilage Overlay from the Structure Plan. We accept that change and as expressed in Section 12 had significant concerns in relation to the proposals for underpasses. The result was that counsel and the experts for the Pet lodge did not appear at the Hearing.
- 14.139 We accept the submission insofar as it relates to the removal of the Crossing Curtilage Overlay.

⁵⁶² Submitter 82.

⁵⁶³ Submitter 78.

⁵⁶⁴ At [11.73] and [11.74].

Mr Finlin

14.140 Mr Finlin (101) presented to us and explained his support for the TPLM Variation, especially in relation to reducing housing issues, and affordability, in Queenstown. Mr Finlin has worked with the Council through the development of the TPLM variation.

14.141 Mr Finlin sought that his land at the eastern end of the TPLM Site have the MDR zone widened and the proposed open space deleted. His submission resulted in the Council experts⁵⁶⁵ reconsidering the eastern edge of the TPLM Site. The proposed redesign was to provide a 'gateway' edge and a more defensible eastern edge. We have addressed our position on the 'gateway' concept above. But at this location we do consider that a high-quality edge is required (and a transition to the Threepwood site, and then Lake Hayes). Mr Finlin largely agreed with the redesign during the Hearing. We agree with Mr Brown in his s42A Report as to the benefits of this redesigned approach. In relation to the open space area we address his desire to have flexibility to integrate the park across the development and reject it for the reasons in Section 10. We have carefully considered the infrastructure triggers and for the reasons set out in Section 12 consider what we recommend being efficient and the most appropriate to achieve the objectives. At the Hearing Mr Finlin discussed the transport infrastructural requirements (with Waka Kotahi having no detail, design nor commitment for the eastern end at the present time) and the implications of the packaging and staging of the infrastructure on development within the TPLM Site, especially at the eastern end). We recognise that funding has not been provided for the eastern end improvements by Waka Kotahi. However, we have set out a clear statement in our executive summary that if Waka Kotahi and the new Government want to unlock land for housing and help address housing affordability issues in Queenstown then funding will need to be found. The works required are not at significant cost compared to the housing benefit.

14.142 In relation to the request for removal of open space from their land we agree with the evidence of Ms Galavazi⁵⁶⁶ that it should be retained as shown indicatively in the Structure Plan. We do not consider that a developer should be able to integrate the area across the development for the reasons set out in Section 10 above. We therefore reject the submission point on this matter.

Threepwood

14.143 Threepwood⁵⁶⁷ owns the land at the eastern end outside the TPLM Site (although it was originally included for assessment). The land on the flat is rural residential, with some farming paddocks on the flats) and follows the terrain down to the southwestern end of Waiwhakaata Lake Hayes). Threepwood also farms the eastern end of Slope Hill. Access to Threepwood is via McDowell Drive.

14.144 Their submission, while raising wider issues raised by other submitters in relation to traffic, infrastructure and amenity effects focused more on specific implications for the

⁵⁶⁵ Messrs Lowe and Skelton.

⁵⁶⁶ SOE Jeannie Galavazi at [23]-[25].

⁵⁶⁷ Submitters 33 (Threepwood Farm Residents Association and the Threepwood Custodians td), 48 (L and D Anderson) and 115 (K and J Crane).

use of their land being interruption by the active travel link of access to the land on Slope Hill (which cuts across the main access from the lower farm to the upper farm on Slope Hill), stormwater runoff from the TPLM Site and flooding effects and land ownership for a proposed pump. During his presentation, Mr Crane provided further images of the site.

14.145 We heard from Mr Crane on behalf of Threepwood that they, through the farming operations, are the custodians of Slope Hill and retaining its values (or at least present appearance) through on-going farming. But that is in jeopardy. Mr Newson explained that presently the "farm is not an economic unit" and "barely viable". In his opinion, developing the paper road along the base of Slope Hill would make matters even worse and, in his experience, people using active transport links are frequently unaware of their surrounds and there is considerable scope for conflict. Mr Brown in his s42A Report considered that the effects of active travel and farm access can be "remedied reasonably simply" and a suitable system would be able to be designed.⁵⁶⁸ Mr Brown retained that opinion. While we recognise the potential for conflict, we consider that it can be appropriately managed through controls and signage. While we recognise that this is an added inconvenience for Threepwood farming operations it is a paper road and its potential use by the public is clear. We therefore reject this submission point.

14.146 During the Hearing Mr Crane addressed stormwater effects and the submission included photos of flooding on the Threepwood and TPLM Site. Stormwater runoff has been addressed in detail in Section 11. For Threepwood, the result of the provisions will be that for rainfalls within the TPLM Site up to the 1% AEP (RCP8.5 in 2100) will be via soakage to ground. In relation to runoff from Slope Hill it is also managed to the 1% AEP to ground, or as close to it as possible. A stormwater swale system is shown on the Structure Plan and many additional provisions have been added through the Hearing process. These requirements will considerably reduce the frequency of overland flows from the TPLM Site towards Threepwood but they will not avoid them in extreme weather events (as per the status quo). We consider that stormwater effects from the TPLM site on the Threepwood property have been appropriately managed and mitigated. We accept this submission point insofar as it relates to changes made to the provisions but reject it insofar as it seeks further stormwater management measures beyond those we recommend.

14.147 In relation to any infrastructure that may be located on Threepwood land (be it an active travel link or pump station, that can only occur with the agreement of the owners or through processes beyond the scope of this Hearing.

Other landowners within the TPLM Site

14.148 The key issues for the other landowners within the TPLM Site itself have largely been dealt with in the sections above (including stormwater, transport and the TPLM provisions including density etc). Outstanding matters that require brief comment are:

- (a) GDL (73): During the Hearing we received extensive evidence on behalf of GDL (including from Mr Tylden) and undertook a site visit. Beyond the overall position

⁵⁶⁸ At [11.77].

of GDL in support of the TPLM Variation, the key matters⁵⁶⁹ raised in the GDL submission have been addressed in the sections above and are accepted/rejected according to our findings. The sole remaining issue is the extent of the UGB to accommodate the proposed water storage tanks on Slope Hill (and within the ONF). While an issue as to scope was in play it was not explored at length during the Hearing (with the focus more on the merits). While not explored in detail through the Hearing for completeness we accept that the UGB extension was "on" the variation for the reasons set out in the Representations on behalf of GDL.⁵⁷⁰ In relation to the merits:

- (i) Through the Hearing process the area of UGB shrank to ultimately circle the location of the tanks.
- (ii) The key argument for GDL was that the UGB extension was required to allow the tanks, as urban development, to have a consenting pathway within an ONF.⁵⁷¹
- (iii) Mr Brown considered the tanks to be utilities (as accepted by Mr Murray) and hence have a consenting pathway within the ONF.⁵⁷²
- (iv) The landscape experts agreed that it is not uncommon for utilities to be located on ONL/Fs and "that from a landscape perspective, they do not consider that water tanks in their own right, read as urban development."⁵⁷³

We agree with Mr Brown that the UGB is not required to be extended onto Slope Hill to provide a consenting pathway for the water tanks as a utility. We therefore reject this submission point.

- (b) Sanderson (93): Many of the matters raised in this submission have been addressed through our findings above, including in relation to density and the requested 10m AAA and BRA, in Sections 9, 12 and 13 above. Key remaining issues are:
 - (i) The size of the commercial precinct. Sanderson sought, and the evidence of Ms Stagg expanded on it, that additional commercial space (4.21ha in total instead of 2.13ha as notified) be added. Ms Hampson in her Rebuttal Evidence opposed a commercial precinct at this scale but accepted that an increase in size was justified and supported 3.20ha.⁵⁷⁴ Ms Stagg accepted that area as appropriate.⁵⁷⁵ In relation to where the extra land is located, Ms Stagg preferred it be extended to the north (due

⁵⁶⁹ In summary as listed in the representations on behalf of GDL Ltd, dated 8 December 2023, at [14].

⁵⁷⁰ Dated 8 December 2023.

⁵⁷¹ Statement of Evidence of Werner Murray at [22]-[30]. Noting a similar approach had been undertaken on Peninsular Hill where the UGB and an ONL overlap. These matters were explored in detail in the Representations on behalf of GDL at the Hearing.

⁵⁷² Rebuttal Evidence Mr Brown at [187].

⁵⁷³ Joint Statement of Landscape Experts, Slope Hill, 18 October 2023, Appendix A, page 3 (g) and (h).

⁵⁷⁴ At [62].

⁵⁷⁵ Summary Statement at [13].

to shading from Slope Hill). We support it being located to the east as opposed to the north as shown on the Structure Plan.

- (ii) Minimum office size in the commercial precinct. Ms Hampson in her evidence rejected the limitation of maximum office space in the Commercial precinct on the basis that it would permit medium scale (at a District level) offices in the precinct which she considers appropriate for the larger centres. In her response evidence Ms Stagg retained her opinion that more flexibility needs to be enabled and that it would undermine the functioning of neighbouring Frankton. We prefer the evidence of Ms Hampson on this matter and reject this submission point.
 - (iii) Flexibility of the open space area has been enabled with the redrafting of the Structure Plan to provide a degree of locational flexibility.
- (c) Ladies Mile Property Syndicate (77): We heard from Mr Brabant and five expert witnesses on behalf of this submitter. Many of the matters raised in the submission and evidence (density, northern BRA being 10m, RVA and subdivision) have been addressed above. In particular, the evidence on the inability for the market to deliver at the densities of the notified version have been carefully considered and the requirements amended (to 40 dwelling per hectare (net)) as set out in Section 13. In relation to the unformed 'paper' road we agree with the position set out by Mr Brown in his s42A Report.

While the provisions we propose are different to where Ms Hoogeveen reached with Mr Brown, we consider they are the most appropriate applying a "real-world lens" as encouraged by Mr Brabant. The same applies to the transport effects; the evidence of Mr Parlane has been considered and is addressed in Section 12. In relation to RVA, Mr Brown changed the provisions in response to their submission (and others) in his Reply s42A Report. Days of occupation for RVA have been increased as has the percentage of a building (if over 4 stories) that can accommodate RVA. But the activity status has remained as non-complying and we consider that most appropriate to achieve the objectives and to deliver the right balance with people owning homes to live in to achieve the purpose of the TPLM Zone and to respond to the Minister's expectations.

- (d) Winter Miles Airstream Limited (94): We heard from Mr Berry, Mr Wensley and Mr Giddens. Many of the matters raised by WMAL⁵⁷⁶ have been addressed in Sections 12 and 13 above (noting much of that happened before the Hearing and Mr Hills did not attend the Hearing). Beyond the overall position of WMAL in support of the TPLM Variation (subject to amendments it seeks), the key matter not yet addressed is the request for a commercial precinct (reduced through the process to 2,500m²). Ms Hampson did not support this proposed change in her evidence⁵⁷⁷ based on its closeness to the existing precinct, the existing Kawarau Park centre, the existing enablement for 100m² GFA as a permitted activity and

⁵⁷⁶ Legal Submissions of Counsel at [3.3].

⁵⁷⁷ At [192]-[197].

she did not predict a shortfall of commercial / office land. She maintained her opposition in her Rebuttal Evidence.⁵⁷⁸ At the Hearing Mr Wensley explained how WMAL was in discussions with large employees for office space and apartments.

Following the Hearing Mr Giddens responded⁵⁷⁹ to our questions by providing a location and provisions relating to the proposed precinct (and to then control additional commercial activities permitted in the area).

We have considered the matters carefully and ultimately accept the position of Ms Hampson that the WMAL site should not have a Commercial Precinct. We note Mr Giddens' evidence as to the permitted rule in the HDR Precinct and the ability for commercial to kick start development. As he states, it is the quantum of this which is presently unknown. We consider that such development would be better tested at the time of consenting when far more information is known. We therefore reject this submission point.

- (e) Maryhill (105): We heard from Mr and Mrs Stalker. Mr Stalker (the managing director) spoke in support of the TPLM Variation, and the work done to amend the provisions through the Hearing process. He explained how they had sought to develop their land for housing since 2016. He (and Ms Justice) specifically mentioned the AAA (now BRA), which we have recommended be reduced to 10m. We have however not addressed the ownership structure for that area – we consider that best left to later subdivision consent applications as set out in Sections 12 and 13.

Key points raised in its submission and addressed by Ms Justice in her evidence and before us included density minima which we have reduced to 40 dwellings per hectare (net) as set out in Section 13 based on her (and other) evidence. She and Mr Brown agreed on flexibility changes to the Structure Plan and storage facility provisions (which we have adopted). In relation to the park and dual-purpose stormwater facilities we address that in Section 11.

In relation to other matters, we have rejected moving the ONF boundary as set out in Section 9, and recommend a 10m BRA to the north of SH6.

15. CONCLUSION

- 15.1 We have set out in our report above, and in the appendices, our reasons for our recommendations and the material required to fulfil the statutory requirements for our draft decision. We recognise that many submitters have opposed the TPLM Variation and raised the depth of public opposition expressed through the Masterplan process. However, having reviewed the submissions, read over 80 briefs of evidence (as well as a significant amount of additional information provided through the process), listened to and questioned the evidence through 10 Hearing days, we agree that the TPLM

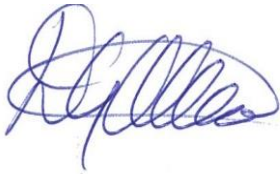
⁵⁷⁸ At [33]-[37].

⁵⁷⁹ Supplementary evidence dated 15 December 2023.

Variation, with the changes we propose, is a justified, sound, efficient and effective planning response to the housing issue, especially in relation to affordability.

- 15.2 We have set out above in detail our reasons for this and also our reasons as to why we consider that the TPLM Site is appropriate for this development and that the effects of development have been appropriately managed. We have applied the statutory framework and consider that the required matters have all be adequately addressed.
- 15.3 Our findings are unanimous and have been reached after a great deal of discussion and reflect all the evidence and submissions we have heard (and read). We would like to thank all those who have been involved in the process who provided us with such a range of opinions and analyses. The efforts made, even if we have not accepted them, have allowed us to make a better decision and improve the provisions we recommend for the TPLM Variation.


Dated 29 April 2024



David Allen (Chair)



Judith Makinson



Gillian Crowcroft



Hoani Langsbury

A handwritten signature in black ink, appearing to read 'Ian Munro', with a horizontal line extending from the end of the signature.

Ian Munro