

---

**BEFORE THE QUEENSTOWN-LAKES DISTRICT COUNCIL**

---

<b>UNDER THE</b>	<b>RESOURCE MANAGEMENT ACT 1991</b>
<b>IN THE MATTER OF</b>	<b>Proposed Private Plan Change 54 to the Operative Queenstown-Lakes District Plan</b>
<b>BETWEEN</b>	<b>NORTHLAKE INVESTMENTS LIMITED</b>
	<b>Applicant</b>
<b>AND</b>	<b>OFFICE FOR MĀORI CROWN RELATIONS - TE ARAWHITI</b>
	<b>Submitter</b>

---

**BRIEF OF EVIDENCE OF KATRINA MEGAN ELLIS**

**13 July 2023**

---

**CROWN LAW**  
**TE TARI TURE O TE KARAUNA**  
PO Box 2858  
Wellington 6140  
Tel: 04 472 1719

Contact Person:  
Rosemary Dixon / Amy Hill

[rosemary.dixon@crownlaw.govt.nz](mailto:rosemary.dixon@crownlaw.govt.nz) / [amy.hill@crownlaw.govt.nz](mailto:amy.hill@crownlaw.govt.nz)

## Introduction

1. My full name is Katrina Megan Ellis.
2. I hold a Bachelor of Resource and Environmental Planning with First Class Honours from Massey University. I have approximately 11 years of planning experience in New Zealand.
3. I am the South Island Planning Manager at The Property Group, which is essentially a Senior Planner role with additional management duties. I have worked at The Property Group since 3 May 2021.
4. Directly prior to joining The Property Group I was employed at the Queenstown Lakes District Council (**Council or QLDC**) from May 2016 to April 2021, where I held roles of Senior Planner, Resource Consents Team Leader (Wānaka), Resource Consents Team Leader (Queenstown) and Acting Resource Consents Manager.
5. As part of my roles at QLDC I oversaw the resource consent processing for all Wānaka resource consents and worked on numerous consent applications under the Operative District Plan and Proposed District Plan in the Wānaka area, including for Outline Development Plans and large scale subdivisions in the Northlake Special Zone. I have policy experience and have recently helped lead the Gore District Plan review and produce the draft Gore District Plan. My role included determining suitable areas to change from rural zoning to an urban, settlement or rural lifestyle zone. My experience includes addressing Māori issues as part of District Plan reviews, including involvement in district plan reviews in Tasman District for papakāinga and for Gore District the introduction of a Māori Purpose Zone.
6. For completeness I note that while in my roles at QLDC I have processed resource consents, reviewed and signed off resource consents, and been involved in supporting my team who have processed consents in the Northlake Special Zone. I have not had any involvement in any plan change for the Northlake Special Zone area.
7. I am an Intermediate member of the New Zealand Planning Institute, which brings with it obligations with regard to continuing professional development. I am

also an accredited Hearings Commissioner.

8. I am familiar with the land subject to Plan Change 54 (**PC54**) and with the land known as Sticky Forest. I have observed the PC54 area from within Sticky Forest, and from the adjacent developed area within Northlake. I am also familiar with the current Environment Court proceedings relating to rezoning of the Sticky Forest land (*Bunker & Rouse v Queenstown-Lakes District Council* ENV-2018-CHC-69) for which I have provided expert planning evidence.

### **Code of Conduct**

9. Although this is a council hearing, I confirm I have read the Environment Court's Code of Conduct for Expert Witnesses in the Environment Court of New Zealand Practice Note 2023, and I have complied with it in preparing this evidence. My qualifications and experience as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **Scope of evidence**

10. My evidence addresses:

- 10.1 Support for the proposed road to the land commonly known as Sticky Forest.
- 10.2 Response to submissions that comment on the future use of the Sticky Forest land.
- 10.3 Updated Provisions filed by Northlake Investment Limited (**NIL**) in relation to transport.
- 10.4 Additional transport rules proposed in the **s42A Report**.<sup>1</sup>

### **Support for the road link to Sticky Forest**

11. The proposed plan change incorporates a road connection to the land known as Sticky Forest. This road would be a vested public road that would serve the Northlake development enabled by this Plan Change. I consider this a positive outcome, as it provides roading to a currently land locked piece of redress land.

---

<sup>1</sup> Dated 29 June 2023, prepared by Mr Ian Colin Munro.

Due to urban development around Sticky Forest in recent years, and topography constraints, I understand from Te Arawhiti it is increasingly difficult to find a suitable access to Sticky Forest. The proposed road provides a practical access solution, noting the landowner is supportive of establishing the road link, and the road can meet the QLDC's Code of Practice.

12. I agree with Mr Munro<sup>2</sup> that having an access road does not determine what activities might occur on Sticky Forest in future. It is not the role of PC54 to contemplate what zoning changes may or may not occur as that is subject to other proceedings.<sup>3</sup> I also agree that access is just as relevant an issue under the current zoning.

13. Having road access to Sticky Forest is a positive outcome for providing connectivity. Examples of where this could be useful under the current informal use of Sticky Forest is emergency services which will have road access to Sticky Forest in the event of fire or a bike accident, or the forestry manager can access the forestry block for inspection and routine maintenance.

14. Having the road is also positive in that it provides access to currently landlocked redress land. I agree with Mr Munro<sup>4</sup> that providing for road access to Sticky Forest will better promote sustainable management than not doing so, and that it is consistent with Northlake Special Zone objective 12.33.2(3) which seeks:

*Development that is well-connected internally and to networks outside the zone.*

15. In addition, approving the plan change with road access to Sticky Forest would be consistent with the policy direction in ss 6(e) and 8 of the RMA including requiring that the principles of Te Tiriti o Waitangi be taken into account. Placing undue restrictions on the creation or use of such a road to Sticky Forest will not. I address this further below.

### **Response to other submissions that relate to potential future development of Sticky Forest**

16. Mr Munro has addressed submissions relating to the potential future

---

<sup>2</sup> Paragraph 1.2 and 4.27 of s42A Report.

<sup>3</sup> Though I disagree as to the need for the traffic rules proposed.

<sup>4</sup> Paragraph 8.10 of s42A Report.

development or use of Sticky Forest in section 8 of the s42A Report.

17. I agree with Mr Munro’s conclusions in paragraphs 8.6 to 8.8, and 8.10. The potential future use of Sticky Forest is subject to separate RMA proceedings as I have noted. Further, it would be unreasonable<sup>5</sup> not to provide road access to Sticky Forest with the aim of keeping the site landlocked and therefore denying future use and development options.

18. Providing road access to landlocked land is sustainable management. I agree that the submission points that reference the potential future development or use of Sticky Forest as grounds for denying access should be rejected.

### **Updated provisions filed by Northlake Investments Limited**

19. Te Arawhiti’s original submission sought relief in relation to non-complying rule rule 15.2.1.1. It recommended an additional policy be added relating to the proposed road that extends to the Sticky Forest land.

20. Northlake Investments Limited (**NIL**), in their filed evidence, have proposed changes to rule 15.2.3.4(xx) and policy 3.1. I consider these changes to be suitable, and that it is necessary to include the changes to policy 3.1 so that there is a policy that directly relates to the proposed non-complying activity rule 15.2.3.4(xx).<sup>6</sup> I consider the amended rules adequately address the concerns underpinning the additional policy and provision sought in Te Arawhiti’s original submission. Those additions are no longer necessary if the amendments proposed by NIL are accepted.

21. As an aside, I observe that the s42A Report could be read as suggesting that Te Arawhiti sought prohibited activity status for subdivision of Activity Area B6 that did not include legal vehicle and infrastructure access to Sticky Forest.<sup>7</sup> For the record, I note that it was Te Rūnanga o Ngāi Tahu who sought that prohibited activity status and Te Arawhiti sought non-complying status in its primary submission. In its further submission, Te Arawhiti noted that it had sought a non-complying rule but also acknowledged there was merit in considering prohibited

---

<sup>5</sup> Mr Munro says “not defensible” at paragraph 8.7 of the s42A Report.

<sup>6</sup> Rule numbering follows the proposed plan change as notified and s 42A Report.

<sup>7</sup> It groups the Te Rūnanga o Ngāi Tahu and Te Arawhiti submissions in the discussion in section 10 (e.g. paragraph 10.26) though paragraph 10.20(c) correctly records the position.

activity status. (Both parties seek the addition of infrastructure servicing in the rule.)

22. I consider that non-complying activity status is appropriate for this rule, subject to supporting policy 3.1 also being included.

**Additional traffic rules proposed in s42A Report**

23. The s42A Report at paragraphs 10.39 and 10.52 recommends the following additional amendments to the Operative District Plan in order to manage traffic effects from land use on Sticky Forest:

- 23.1 A new restricted discretionary activity rule to be added by way of a new clause (v) to Rule 12.34.2.3 and associated matters of discretion – requiring resource consent for “Any traffic generated by land use activities within Sticky Forest (Section 2 of 5 Block XIV Lower Wanaka Survey District) seeking to access and use roads within the Northlake Special Zone”.
- 23.2 An exclusion of the above new rule from 12.34.3(i) which provides that all restricted discretionary activities are to be processed on a non-notified basis.
- 23.3 Further amendments in relation to use of the roads by heavy vehicles:
  - a) to rule 15.2.3.4(xx) to include “a weight restriction so as to limit use by High Productivity Motor Vehicles (HPMV) (as defined in Land Transport Rule 41001/2016)”;
  - b) to rule 12.34.2.3(i)(b) to add “in the case of Activity Area B6, weight restrictions applying to High Productivity Motor Vehicles (HPMV) (as defined in Land Transport Rule 41001/2016) at the connection to Sticky Forest”; and
  - c) adding a matter of discretion (d) to the new restricted discretionary rule 12.34.2.3(v) applying to forestry and/or construction related traffic as follows:

- “1. the limitation or avoidance of frequent or high volumes of High Productivity Motor Vehicles (HPMV) (as defined in Land Transport Rule 41001/2016) and/or Heavy Commercial Vehicles (HCV);
2. the suitability of any Construction Traffic Management Plan or Forestry Traffic Management Plan, and any associated measures or temporary works proposed; and
3. the imposition of weight restrictions on roads.”

24. That is, the s 42A Report recommends the introduction of new transport related rules, namely any traffic use of the Sticky Forest connection road to be assessed as a restricted discretionary activity (and open to a notified consenting process), and a new non-complying approach to heavy vehicles using Northlake, particularly logging trucks.

#### **Proposed traffic rules**

25. I do not support these proposed rules.

#### **Proposed rule 12.34.2.3(v)**

26. Proposed rule 12.34.2.3(v) (and its exemption in the notification rule exclusion 12.34.3) is a blanket rule that essentially controls future uses of Sticky Forest. As I have already said, future uses of Sticky Forest resulting from a rezoning are a matter for other proceedings and not relevant to this plan change. The Environment Court will hear specific evidence on the traffic effects of what is proposed for Sticky Forest as a result of the rezoning and is sufficiently robust that it can address traffic effects if they arise from development enabled by the requested provisions. The provisions before the Environment Court also include provisions regarding logging (including traffic management) in the event the rezoning is granted.

27. Even without the rezoning being sought, under the Operative and Proposed District Plan zoning for Sticky Forest, a single residential unit would be at least a discretionary activity.<sup>8</sup> Traffic effects could and should be looked at as part of any

---

<sup>8</sup> ODP rule 5.3.3.3(i) and PDP rule 21.4.4.

consent process.

28. Even if it were relevant for this panel to consider future uses of Sticky Forest, the scope of the appeal for Sticky Forest zoning is limited to upzoning a portion of Sticky Forest, and not the entire site. What is being tabled is development of part of the site to accommodate up to approximately 150 houses. The Court will consider whether all, some or none, of that potential development should be able to occur. Further, under Proposed District Plan rule 29.4.11, which development on Sticky Forest would be subject to, any development of over 50 residential units would be subject to restricted discretionary rule 29.4.11 for “high traffic generating activities”.

29. The s42A Report relies on the Council’s traffic assessment by Mr Smith, which suggests there could be 338 to 901 houses on Sticky Forest. This assumes the whole of Sticky Forest is rezoned for housing which is not within the scope of the appeal. Accordingly, it is an inaccurate baseline. The 63 houses proposed through PC54 and approximately 150 houses proposed in Sticky Forest<sup>9</sup> would comfortably sit within what Mr Carr<sup>10</sup> considers acceptable traffic, as he concludes up to 325 extra houses can be accommodated using the Northlake roading network. This would also address Mr Munro’s concerns that some residential flats may also be created within Northlake contributing to traffic.<sup>11</sup>

30. I note that Mr Penny is providing evidence to this hearing on the traffic effects of development within the scope of the rezoning appeal.

31. The proposed rule is not limited to future uses of Sticky Forest. Applied to current uses, which include forestry and recreational biking, emergency services would be prevented from using the road when there is a fire or has been an accident, bikers would be prevented from using the new Northlake road to drive to Sticky Forest, and the forestry manager from accessing the site for inspection or other routine matters. None of these restrictions seem necessary and in my opinion are inefficient and ineffective in achieving Part 2 of the RMA.

---

<sup>9</sup> Council seek fewer lots as does the s 274 party in opposition.

<sup>10</sup> Providing traffic evidence for NIL.

<sup>11</sup> Residential flats, by definition, are part of a residential unit, and must be limited in size. As such, it is important not to consider a residential flat in the same light as a separate residential unit.

32. Further, I consider it would be an unworkable planning outcome to have rules that manage traffic to/from Sticky Forest sitting within the Operative District Plan. Once the appeal on Sticky Forest zoning is determined, activities on the Sticky Forest land will be subject to the rules of the Proposed District Plan only (i.e. all relevant Proposed District Plan rules would be treated as operative and all Operative District Plan rules would be treated as inoperative). It is not logical to expect plan users to look in the Northlake Special Zone or any other chapter of the Operative District Plan to check if an activity will be compliant when the Sticky Forest land will, in due course, be subject to rules of the Proposed District Plan.<sup>12</sup>

33. The proposed approach raises an enforcement issue. The rules will in effect create a physical legal road that provides access to Sticky Forest, but without provision to use the road legally. I do not consider the proposed rules could be effectively monitored and enforced if the road is used on an ad hoc basis by different persons (e.g. bikers, ambulance, forestry management).

34. These problems arise because it is not coherent planning to have planning rules in one zone controlling activities in another zone.

35. Finally, I cannot find any rationale in the s42A Report as to why there is a proposed exclusion for proposed rule 12.34.2.3(v) from the non-notification rule 12.34.3(i). Should the Commissioners be minded to include rule 12.34.2.3(v), I would not support its exclusion from rule 12.34.3(i). The potential effects would be limited to traffic, which is a matter for experts, and the road controlling authority, not the public at large.

### **Heavy Vehicles including logging traffic**

36. In terms of heavy vehicles including forestry traffic, this is again a matter for the Environment Court to consider in the context of the appeal before it.

37. I note that under the Proposed District Plan, which the Sticky Forest land is subject to, forestry harvest within the Outstanding Natural Landscape (**ONL**) portion of the site (were it to occur) would be a non-complying activity pursuant to Rule 21.4.37. (I am aware based on previous discussions with QLDC planners

---

<sup>12</sup> My understanding is that due to the PDP being a staged review essentially two plans may be operative at the same time depending on zone.

that this is their position.) Any traffic would need to be considered under that consent if it were sought.

38. The portion of the site outside the ONL (currently zoned rural and covered by a Rural Character Landscape overlay) is subject to Discretionary Activity Rule 21.4.20 for harvesting of forest which does not meet the definition of “plantation forestry”<sup>13</sup> in the National Environmental Standard for Plantation Forestry (**NES-PF**). So far as I am aware, the forest on the site meets the definition of “plantation forest” in the NES-PF. Harvesting of plantation forestry on the remainder of the site outside the ONL is permitted under the NES-PF. The NES-PF as a higher order document prevails over any District Plan, and under the NES-PF district plans are not allowed to impose more stringent rules on plantation forestry (unless they are in an ONL or Outstanding Natural Feature). As such, the proposed provisions which would essentially control harvesting traffic from plantation forestry are inappropriate as they would be more stringent than the NES-PF.

39. I understand from Mr Carr’s evidence<sup>14</sup> that there are requirements outside the RMA for managing heavy vehicle traffic, should that be needed on a temporary basis to take the trees off Sticky Forest. Such process will consider relevant matters such as requirements for traffic management plans, approved routes, pilot vehicles, limitations on truck lengths, etc. I consider it onerous and inefficient to require heavy vehicle restrictions to be included in the District Plan, noting there is an alternative method purposely designed for this scenario already in place.

40. The s 32 analysis does not robustly consider the proposed new rule relating to heavy vehicles and particularly these alternative methods for managing potential effects. It is not clear to me what the proposed District Plan rule delivers

---

<sup>13</sup> NES-PF Regulation 3 states: “plantation forestry means a forest deliberately established for commercial purposes, being—(a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include—

- (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or
- (ii) forest species in urban areas; or
- (iii) nurseries and seed orchards; or
- (iv) trees grown for fruit or nuts; or
- (v) long-term ecological restoration planting of forest species; or
- (vi) willows and poplars space planted for soil conservation purposes”.

<sup>14</sup> Paragraphs 31-36.

that these methods do not, and whether the benefits outweigh the costs given a non-complying rule is proposed.

### **Redress land**

41. Ms King discusses the importance of Sticky Forest as redress land and, in particular, as SILNA substitute land. Removing trees from Sticky Forest is key to enabling this redress land to be utilised by the intended owners. The s 42A Report does not address this in s 32 terms. I do not consider it is appropriate to impose the restrictions proposed in the s 42A Report. Being unduly restrictive would contravene Section 8 of the RMA as it potentially undermines the value of the redress.

### **Conclusion**

42. In conclusion I consider the changes to Rule 15.2.3.4(xx) and amended Policy 3.1. proposed by NIL to be suitable.

43. I consider that potential uses of Sticky Forest, and their associated traffic, should not be considered under this Plan Change. I agree with Mr Munro that:

*PC54 has no role in determining what may or may not come to be enabled on Sticky Forest.<sup>15</sup>*

44. That said, even if it were relevant for this panel to consider future uses of Sticky Forest, the scope of the appeal for Sticky Forest zoning limits proposed development to far fewer lots (150 houses) than various witnesses have suggested or based their potential effects analysis on.

45. I do not agree proposed rules 12.34.2.3(v), 12.34.2.3(i)(b), 12.34.3 and 15.2.3.4(xx) are suitable. They are onerous, pre-empt outcomes of other RMA proceedings, and address matters that are sufficiently covered by another proceeding, other RMA documents (the NPS-PF which does not allow District Plans to include more stringent rules) or non-RMA processes (traffic permits for heavy vehicle use).

46. The additional provisions proposed are not justified in a s 32 sense given the potential impact on this as redress land.

---

<sup>15</sup> Paragraph, 4.27 s 42A Report.

47. Finally, I note the purpose of the plan change includes providing road access to Sticky Forest. The plan change provides such access, but the new rules recommended in the s42A Report applying to the use of that access are at odds with the purpose. In particular, any use of that access requires a consent, that could be notified, and that could be declined.

**Katrina Ellis**  
**13 July 2023**