

Queenstown Lakes District Council

**Section 42A Hearing Report
For Hearing commencing 24 July 2023**

Report dated: 29 June 2023

**Report on plan change request, submissions and further
submissions**

Plan Change 54 - Northlake

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1. SUMMARY

- 1.1. Northlake Investments Limited (**NIL**) has requested a plan change to the Northlake Special Zone (**NSZ**), part of the Queenstown Lakes Operative District Plan (**ODP**), to change existing Activity Areas B2, C1 and E1, part of which is also subject to a Building Restriction Area, into a new Activity Area B6 (**AAB6**). This would increase the potential yield of this part of the Special Zone by up to approximately 63 dwellings (from approximately 64 to approximately 127). It is also proposed to amend the Northlake Structure Plan so as to add additional “required roads” generally following the configuration of the existing Riverslea Road and then (an extended) Stonehenge Road through the new AAB6 area, ultimately connecting to the Special Zone’s boundary with an approximately 50ha block of land known as Sticky Forest.
- 1.2. Plan Change 54 does not address the question of what development should or should not be enabled on the land known as Sticky Forest; that is the subject of a separate PDP appeal process.
- 1.3. Submitters have raised arguments both in support of and opposed to PC54, and there are questions of the scope of the Plan Change that the Panel will need to determine. I have addressed these as they have arisen in my assessment.
- 1.4. Because there is at this time no way of knowing what might come to be proposed within Sticky Forest, it is not possible to ascertain to any meaningful level of certainty what traffic and transportation impacts might result from the use and development of Sticky Forest within the NSZ as a result of potential future traffic generated within Sticky Forest seeking to use the NSZ road network to access Aubrey Road and elsewhere.
- 1.5. I recommend that PC54 be approved with modifications. The modifications recommended are set out in **Appendix 3**. In summary the proposed modifications are intended to ensure that:
 - a. additional dwellings within the new AAB6 can properly mitigate potential adverse effects on the existing road network within the NSZ;
 - b. additional dwellings within the new AAB6 can properly mitigate potential adverse effects on the existing storm water network within the NSZ;
 - c. additional dwellings within the new AAB6 can properly mitigate potential adverse effects on landscape values and in particular the upper ridgeline and ‘bowl’ that encloses North Wānaka; and
 - d. any traffic generated by activities within Sticky Forest that seeks to connect to and through the NSZ will properly mitigate potential adverse effects arising on the transportation network and amenity of persons living along affected streets.

2. INTRODUCTION

- 2.1. My full name is Ian Colin Munro.
- 2.2. I have been engaged as a consultant reporting planner by the Queenstown Lakes District Council to assist it in processing PC54. I am an urban planner and urban designer and I hold the qualifications of a Bachelor of Planning (Hons); a Master of Planning (Hons); a Master of Architecture [Urban Design] (Hons); a Master of Environmental Legal Studies (Hons); and a Master of Engineering Studies [Transportation] (Hons). I am a Full Member of the New Zealand Planning Institute and in 2021 received its Distinguished Service Award.
- 2.3. I have approximately 25-years of industry experience and have provided professional services in a variety of roles across the Queenstown Lakes District for over 17 years. By choice, I usually work as either an independent hearings commissioner or an urban designer. I am also an experienced resource management planner and I confirm that I have sufficient qualifications and experience to perform the PC54 reporting planner role. I am very familiar with plan change processes, public hearings, and the obligations and expectations of independent expert witnesses. Lastly, I confirm that I have been involved in dozens of large-scale green-field and urban growth planning exercises.
- 2.4. I was approached by the Council with a request that I might take on the reporting planner role for PC54 because of what I was told was a combination of its own resourcing constraints arising in the aftermath of the COVID-19 pandemic and concerns that it would not be able to resource the request internally or via local consultants, and because of my particular experience and familiarity with Wānaka and Northlake. Specifically:
 - a. I was the consultant project lead for the Wānaka Structure Plan finalisation in 2007-2008.
 - b. I provided urban design advice as a consultant to the Council for the original Plan Change 16: Three Parks.
 - c. I provided urban design advice as a consultant to the Council for the original Northlake Special zone (Plan Change 45).
 - d. I was an Independent Commissioner for the Proposed District Plan (Stage 1) in relation to district-wide residential zone provisions, and the mapping / attribution of zones in the Clutha Basin including in Wānaka.
 - e. I was an Independent Commissioner for the Proposed District Plan (Stage 3) in relation to industrial and commercial zones, including in Wānaka.

- f. I have contributed to numerous resource consent decisions as an Independent Commissioner across Wānaka.
 - g. I was an EPA-appointed independent commissioner (Expert Consenting Panel) on a Fast Track resource consent application¹ for the Northbrook Retirement Village within the Northlake Special zone made by NIL, and which included a condition of consent (47) that directly relates to PC54 being requested.
- 2.5. In respect of item 2.4(g) in particular, and in the interests of full transparency, I carefully considered whether or not my role as an Expert Consenting Panel member for the Northbrook Retirement Village Fast Track Consent (or my previous work in and around Wānaka) might, instead of providing a purely local-knowledge-benefit, create an actual or perceived conflict of interest or other bias from the point of view of what a reasonable person with a reasonable grasp of the relevant facts might suspect. I satisfied myself that it does not. Critically, condition 47 of the Fast Track Consent was a volunteered condition offered by the Applicant on an *Augier* basis². Although accepted by the Expert Consenting Panel, it does not constitute any predetermination or bias on my part towards whether PC54 should or should not be approved (the consent condition is limited only to NIL committing to lodge a request for a Plan Change that includes provision for access to Sticky Forest). The Northbrook Retirement Village consent otherwise has no physical or other link, relationship, dependence or reliance on Sticky Forest or whatever might eventually occur on that land, and this was recorded in the Expert Consenting Panel's Northbrook Retirement Village decision (see paragraphs 244-264, but in particular 259 and 260).
- 2.6. This report is aided by technical reviews of PC54's supporting information by the following persons (these reviews are provided in **Appendix 1**):
- a. Landscape and visual effects: Ms. Helen Mellsop.
 - b. Transportation effects: Mr. Mike Smith, Stantec Ltd.
 - c. Storm water effects: Ms. Kate Purton, Beca Ltd.
 - d. General infrastructure (water / waste water) effects: Mr Richard Powell, QLDC.
- 2.7. PC54 has not been changed since it was notified, and I refer to the bundle of NIL documents that was publicly notified, reproduced as **Volume 2** to this report. This report

¹ Made under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

² The *Augier* principle derives from the decision in *Augier v Secretary of State for the Environment (1978) 38 P & CR 219*. That is authority for the proposition that an applicant for resource consent who gives an undertaking to a planning authority which is relied upon in granting the consent is precluded from later asserting that there was no power to grant the consent subject to a condition based on the undertaking.

(**Volume 1**), is comprised of this report; the technical reviews identified in 2.6 above (**Appendix 1**); the submissions and further submissions received on PC54 (**Appendix 2**); and proposed provisions resulting from my evaluation of that material (**Appendix 3**).

3. CODE OF CONDUCT FOR EXPERT WITNESSES

- 3.1. I have elected to write this s.42A report in the format of a statement of expert evidence. I confirm that all conclusions that I have formed have been entirely my own and without reliance on any other person, other than those that I have identified and acknowledged within this report.
- 3.2. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
- 3.3. I confirm that I have visited the Site several times since 2006 as part of my various work engagements, and specifically undertook a visit accompanied by NIL representatives as part of my assessment. I will confirm at the Hearing that I have undertaken a final site visit immediately prior to the commencement of the Hearing.

4. THE PLAN CHANGE

- 4.1. NIL has described its plan change request as to³:
- “... enable legal access and infrastructure corridor through the Northlake Special Zone (NSZ) to Sticky Forest, west of and adjoining the NSZ, and to expand the area available for urban residential purposes in the western part of the NSZ.”*
- 4.2. This was clarified slightly in the Council’s Public Notice of PC54, 27 October 2002, as to:
- *“Amend the Structure Plan, policies and rules of the Northlake Special Zone (Section 12) to enable and provide for legal access (for transportation and infrastructure purposes) to the adjoining land to the west legally described as Section 2 of 5 BLK XIV Lower Wanaka SD and known as Sticky Forest;*

³ *Request for a Change to the Operative Queenstown Lakes District Plan*, Document 1, Brown & Company Planning Group Ltd, 3 February 2002, at 1.1.

- *Amend the Structure Plan, policies and rules of the Northlake Special Zone to provide for a new residential Activity Area (B6⁴) in the northwest part of the zone, with consequential amendments to the existing configuration of Activity Areas B2⁵, C1⁶ and E1⁷; and*
- *A consequential amendment to the Subdivision and Development chapter (Section 15) in relation to the proposed legal access to Sticky Forest.”*

- 4.3. The specific changes NIL proposes to the ODP in Chapters 12 and 15 are set out by NIL Request for a Change to the Operative Queenstown Lakes District Plan, Document 2, Brown & Company Planning Group Ltd, 3 February 2002. This is included in Volume 2 of the Hearings Agenda. Although the potential yield of this part of the Special Zone would increase by up to approximately 63 dwellings (from approximately 64 to approximately 127), in the first instance at least a restricted discretionary activity land use consent would continue to be required for any residential activities (rule 12.34.2.3). In this respect PC54 does not create any relevant additional permitted activities over and above what might occur today.
- 4.4. For a simple illustration, I have prepared as **Figures 1 and 2** a simple side-by-side of the Operative Northlake Structure Plan, with that proposed to replace it via PC54.
- 4.5. By way of background, there are a number of relevant points for the Panel to be aware of. These are:
- a. The background to the NSZ;
 - b. The background to Sticky Forest;
 - c. Why PC54 has been requested.
- 4.6. I note that my comments in these respects are intended only to give context to the Panel, and are not otherwise intended to indicate any particular opinion on my part relating to the decisions that cumulatively led to PC54 being requested.

⁴ By way of summary, proposed AAB6 is intended to accommodate residential dwellings at a density of up to 10 dwellings per hectare.

⁵ By way of summary, AAB2 accommodates residential dwellings at a density of up to 10 dwellings per hectare.

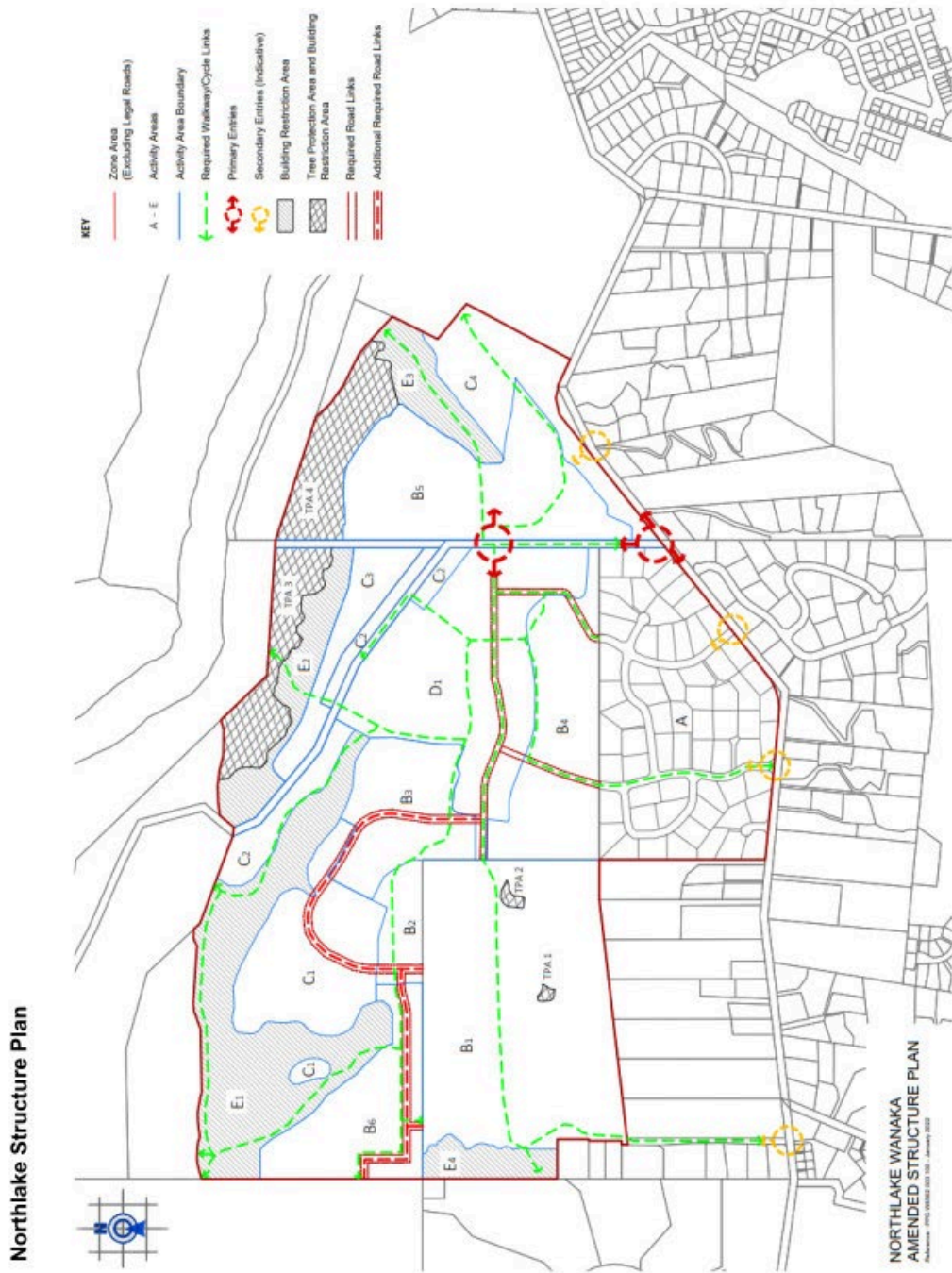
⁶ By way of summary, AAC1 is intended to accommodate residential dwellings at a density of up to 4.5 dwellings per hectare.

⁷ By way of summary, AAE1 is intended to be a landscaped area generally clear of any buildings (buildings are Non Complying activities here).

NORTHLAKE SPECIAL ZONE - RULES

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FIGURE 2 - Proposed PC54 Northlake Structure Plan, no scale.



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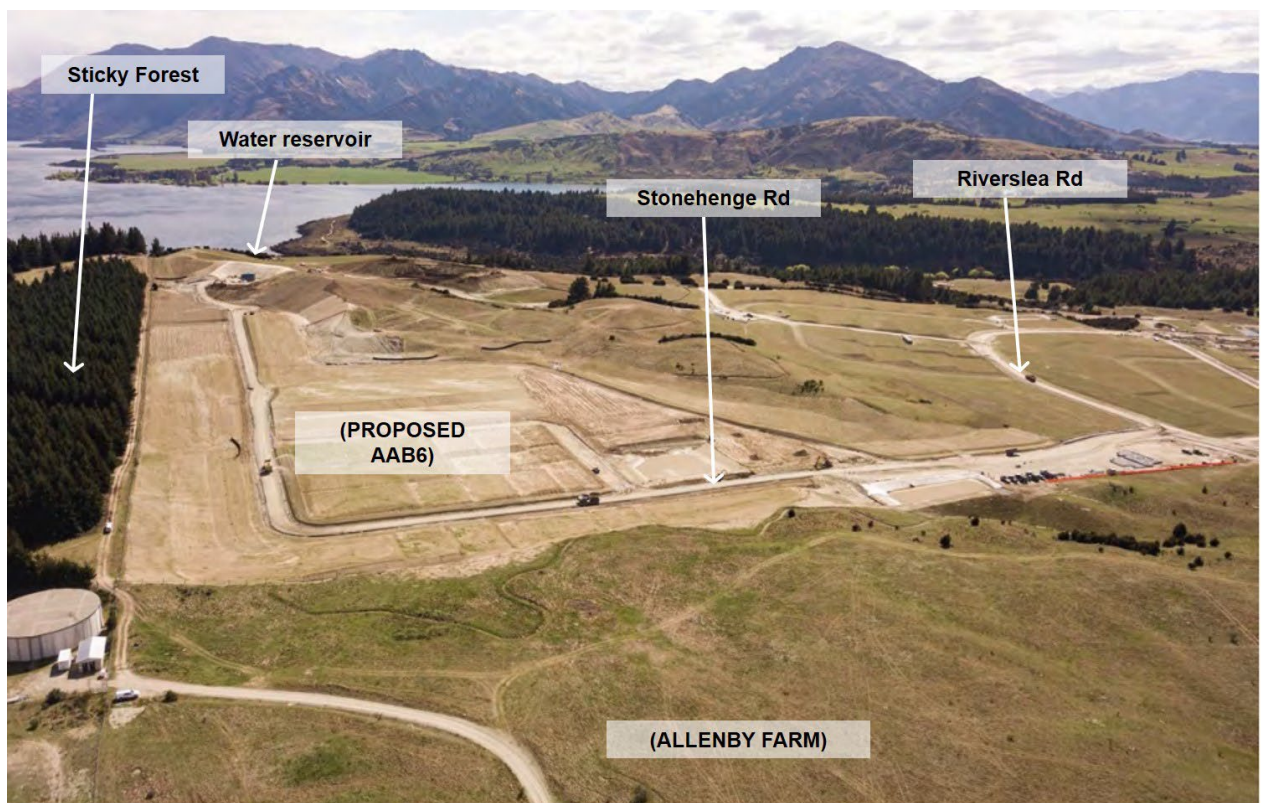
Background to the NSZ

- 4.7. The following is intended to provide the Panel with a basic level of contextual familiarity only. Should the Panel seek additional information on the NSZ, its history, and NIL's current and future plans, NIL would be best-placed to provide that at the Hearing.
- 4.8. The NSZ was introduced into the ODP by way of private Plan Change 45 (2013-2015). The Northlake Special zone was based on a landscape-based master-plan that took a comprehensive view of the land and identified opportunities for differing scales and intensities of development based on that. The NSZ is approximately 220ha in extent, and it envisaged up to approximately 1,600 dwellings although no definitive or absolute limit was set. As I understand it there are at this time three principal developer interests within the NSZ: Hikuwai (east of Outlet Road), NIL, and WFH Properties Ltd (land known as Allenby Farm).
- 4.9. The planning framework proposed for PC45 was consistent with what was then fairly standard practice for Plan Changes within the District, including structure-plan based Special Zones that sat in a dedicated chapter (12) of the ODP. Northlake was one of those Special Zones that was excluded by the Council from its PDP.
- 4.10. The NSZ included a consent requirement for Outline Development Plans, a form of hybrid structure plan / resource consent that was tested across a number of Plan Changes in Queenstown between approximately 2005-2015, but also other Councils including Waitakere City Council ("Comprehensive Development Plans"), and Auckland Council ("Framework Plans"). Its intent was to facilitate spatial integration across larger sites and/or multiple landholdings by filling in the detail between a very high-level structure plan and a very site-specific subdivision consent. Although this type of instrument has faced criticism on several fronts and is not currently favoured by any urban Council I am aware of, it remains Operative within the NSZ and PC54 does not propose to alter that.
- 4.11. Subsequent to the original PC45, private Plan Change 53 (2018-2019) has also been approved. That plan change amended Activity Area D1 (where retirement villages and commercial activities are enabled), and associated rules. I note that **Figure 1**, dated May 2019, is inclusive of PC53.
- 4.12. Aside from PCs 45 and 53, numerous subdivision and land use consents have been granted. The NSZ has been generally developing from east to west, and its western half is an active greenfield subdivision area. Many dwellings have been constructed and are occupied within the eastern part of the Special Zone. The land's developers have coordinated the capacity and performance of transport and other infrastructure networks generally to the scale and type of residential activities they have provided. There is not

to my knowledge any apparent or obviously substantial planned ‘surplus’ of capacity designed-in to the networks. As noted by WFH Properties Ltd in its PC54 submission (since withdrawn) and purely as a matter of record, its consented Outline Development Plan for its land known as “Allenby Farm” - despite it being within the NSZ and notionally already planned for in a strategic sense – still requires it to undertake upgrades to existing transport infrastructure already provided elsewhere within the NSZ to accommodate its own development⁸.

- 4.13. A water reservoir and access road in that part of the Site that is the subject of PC54 has also been consented and constructed (**Figure 3**). In my opinion this facility and its necessary means of access is one reason in support of re-considering the existing Activity Areas in the zone’s north-west corner.

Figure 3 – aerial photograph looking north across the NSZ and the proposed Activity Area B6, showing the new water reservoir as well as the extension to Stonehenge Road shown on the proposed PC54 Structure Plan.

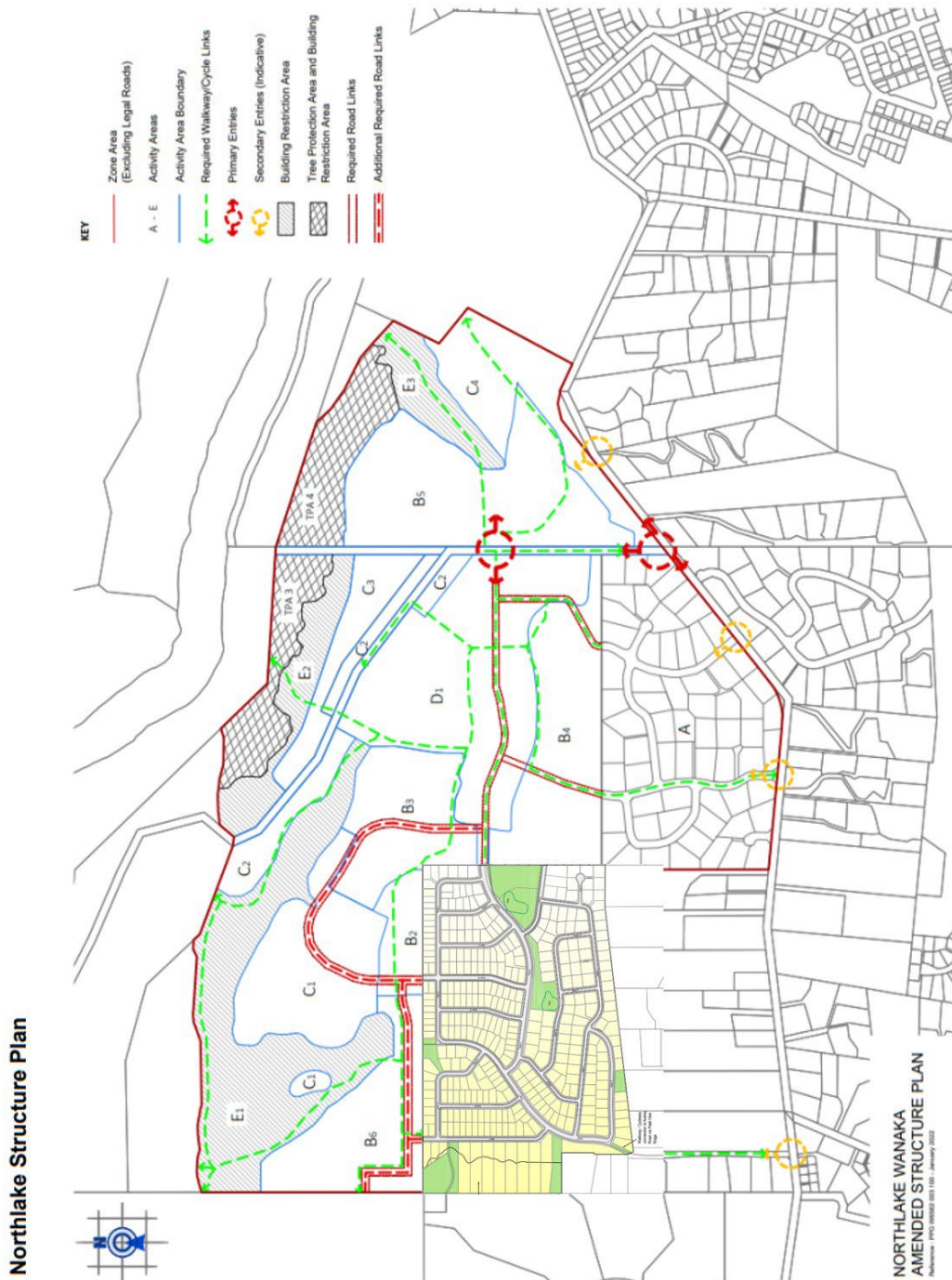


- 4.14. I refer to **Figure 4**, provided by NIL, which gives the most current depiction of the totality of approved (but not fully implemented) subdivisions to date. As can be seen, no subdivisions or Outline Development Plans have been approved on that part of the NSZ that is the subject of PC54’s proposed AAB6, but most of the “required roads” to be

⁸ Council ref. RM180502.

4.15. Of note is that RM180802, on the Allenby Farm land, is in its early state of implementation (Stages 1 and 2, at its eastern side, are the subject of recently granted application RM220913). But as shown in **Figure 5**, PC54's proposed two required road links extending southwards from a proposed Stonehenge Road extension down to the WFH Properties Ltd site correspond to road links that have been granted consent but do not yet exist.

Figure 5 – alignment of PC54's required road links with approved resource consent RM180502 "Allenby Farm" site, no scale.



4.16. For completeness, the extent of RM220913 and Stages 1 and 2 of the Allenby Farm subdivision is included below in **Figure 6**. Although an Outline Development Plan has been approved for the whole Allenby Farms site, this should be seen as an approved framework-type consent only and not necessarily as a ‘done and dusted’ subdivision. Specifically, the outcome of PC54 as it relates to Sticky Forest access, as well as ongoing discussion involving many parties regarding the private road Peak View Ridge (identified on the Operative Northlake Structure Plan as a linear “required walkway / cycle link” and a “secondary entry” in the south-eastern corner linking to Aubrey Road), could plausibly result in changes to what has been consented.

Figure 6 – Extent of Stages 1 and 2 of Allenby Farm subdivision (WFH Properties Ltd), from RM220913 – no scale.



4.17. All residential development within the NSZ is subject to a zone standard governing density (rule 12.32.4.2(iii)) on the basis of residential units per hectare. In both the ODP and PDP it is permitted to have a residential flat on each site containing a residential unit as an accessory or ancillary activity (in both cases the Plans address the matter by way of the definitions of terms within the Plan, rather than via Plan rules in the traditional sense)⁹. I do not consider residential flats associated with new or existing dwellings

⁹ For completeness, the range of terms used in the ODP and PDP are: “residential units”, “residential flats”, and “residential activities”.

would themselves necessarily trigger a need for consent under Chapter 12 of the ODP or contravene the zone density rule. For existing dwellings within the NSZ I am unclear whether or not such residential flats could be added by property owners in the future due to the existence of restrictive covenants NIL has imposed on land within its development. I am not aware that the WFH Properties Ltd / Allenby Farm area within the NSZ has or will adopt the NIL covenants and the approximately 350 lots shown on its approved Allenby Farm Outline Development Plan could result in greater traffic generation than would be normally expected of that number of standard residential units without associated residential flats. This makes the total extent of likely NSZ traffic generation, on top of which any traffic using the zone's transport network entering from Sticky Forest would add to, uncertain at this time.

- 4.18. As a result of all of the above, I have as a starting point for my consideration of the existing environment included all of what can be physically seen today within the NSZ and in addition:
- a. Any unimplemented but approved lots as shown on **Figure 4** that sit on land under NIL's control; and
 - b. Only Stages 1 and 2 of the Allenby Farm subdivision, as shown on **Figure 6**.
 - c. The balance of the Allenby Farm Outline Development Plan (**Figures 4 and 5**) has been taken into account as a more general matter of context noting that it is one way, but not the only or necessarily likely way, the land could be developed.
 - d. I have not been able to make any estimation for what quantity of additional traffic generation might be likely within the NSZ, for both the NIL and WFH Properties Ltd controlled areas of land, related to additional residential flats that might be provided or additional density on currently undeveloped land than shown on an approved Outline Development Plan.

The background to Sticky Forest

- 4.19. Sticky Forest was zoned Rural General in the ODP¹⁰ and Rural in the PDP¹¹ (under appeal). I have no first-hand knowledge of the history of Sticky Forest. I have however pieced together a broad understanding based on publicly-available information provided

¹⁰ Refer to Map 8 of the ODP.

¹¹ Refer to Map 8 of the PDP, which also shows an Urban Growth Boundary for Wanaka following Sticky Forest's wester, southern and eastern boundaries, so as to place Sticky Forest outside of the Urban Growth Boundary.

to both the EPA as part of the earlier Northbrook Retirement Village Fast Track consent application¹², and also as part of NIL's PC54 documentation¹³.

- 4.20. In the 1990s, Sticky Forest was approximately 115ha and had road frontage to Rata Street (west) and Aubrey Road (south). At that time, it was vested in the Council as a local purpose reserve for plantation purposes.
- 4.21. The land was identified by the Crown for eventual transfer to relevant successors in terms of the Ngāi Tahu Deed of Settlement, 1997; Ngāi Tahu Claims Settlement Act 1998; and the South Island Landless Natives Act 1906.
- 4.22. The part that was being used for plantation purposes was returned to the Crown (with the reserve status revoked), and a remaining section (the "Wānaka Plantation property", now known as the Kirimoko Block) was made available to Te Rūnanga o Ngāi Tahu as a commercial redress property and a subdivision to that end occurred directly by the Crown under the provisions of the Settlement Act. The Kirimoko Block has been subsequently further-subdivided and largely developed into residential housing. No provision was made when the Kirimoko Block was developed to provide access to the adjoining residual Sticky Forest site.
- 4.23. As a result of what has been an atypical approach to land subdivision, the block of land today known as Sticky Forest (Section 2 Sec 5 Block XIV Lower Wanaka SD, approximately 50ha in area) became land-locked, with no direct public road access connecting to its boundary. This presents a practical problem that exists to this day.
- 4.24. Despite the revocation of Sticky Forest's reserve status and transfer to the Crown expressly for redress purposes, the Wānaka community has retained what I would characterise as a strong association with the land as a 'public' resource. This is evidenced by some of the submissions received on PC54 and also the work I participated in during 2007-2008 for the Wānaka Structure Plan finalisation (which was established to complete an earlier 2004 draft). The 2004 draft Structure Plan identified Sticky Forest as open space reserve. As part of the land use scenario development and testing phase I led in 2007, and based on the information provided by the Council at that time, a Landscape Protection Area was identified for Sticky Forest on the premise that its long-term future would be as the town's distinctive "plantation" (irrespective of ownership), a densely-treed walking and cycling area subject to little if any urbanisation. My recollection is that discussion at the time was centred on what was seen by Council advisors to the consultant team as a very improbable task of felling and clearing several

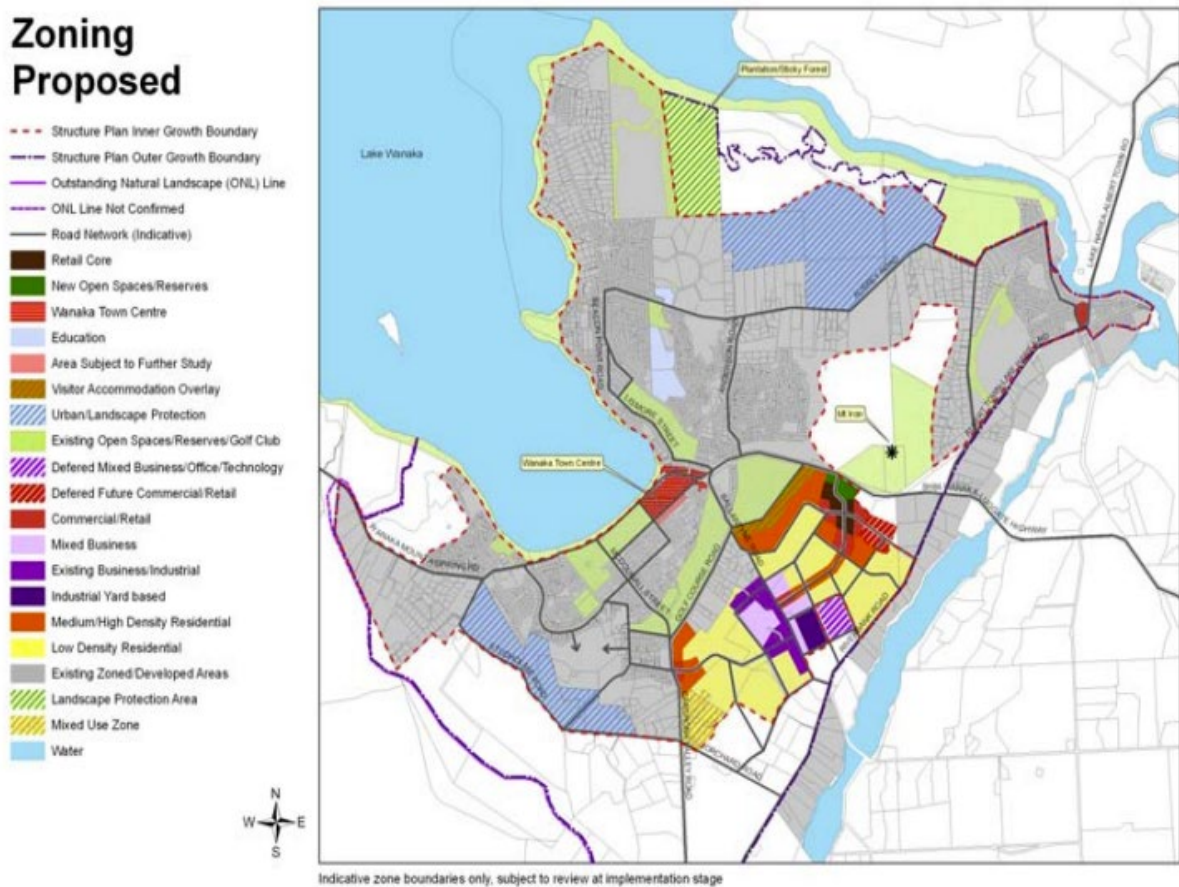
¹² Comments provided by Ms. Lauren Semple, Greenwood Roche Ltd., on behalf of Theo Bunker and Lorraine Rouse, 23 June 2021, as part of comments provided to the Expert Consenting Panel when the NIL Northbrook Retirement Village Fast-track application was considered.

¹³ Correspondence provided from Ms. Rosemary Dixon, Te Tari Ture o te Karauna Crown Law Office, 28 March 2022, to NIL and provided by NIL as part of a Clause 23, Schedule 1 response to the Council.

tens of thousands of trees to make way for development in the face of the community's long-standing experience of the area as public space, and that the Kirimoko block had been identified as the 'developable' part of the original Council reserve. It is not my intention to imply that the above were or are formal policy positions of the Council or that they were even factually correct presumptions; it is merely to convey my recollection of the rationale provided to the project consultants at the time of the Structure Plan finalisation by way of background briefings and information for that project.

4.25. I refer to **Figure 7**, the Council's Wānaka Structure Plan, 2008 and the identified Landscape Protection Area (next page).

Figure 7 – Wānaka Structure Plan, 2008, no scale. Sticky Forest / Landscape Protection Area identified by the hatched green quadrilateral shape.



4.26. In the Council's notified PDP process, one of the identified successors and future-owners of Sticky Forest, Mr. Michael Beresford, submitted to the PDP seeking an urban zone for the land. His submission was rejected by the Council and an appeal to the Environment Court was lodged. Mr. Beresford has since been succeeded by Mr. Theo Bunker and Ms. Lorraine Rouse, who are also submitters to PC54. The appeal remains

a live matter outside of PC54. I confirm that I have no knowledge of the appeal, what options are being considered, or what the Council's position on the matter might be.

4.27. PC54 has no role in determining what may or may not come to be enabled on Sticky Forest. Although provision of access to the land would be a pre-requisite of any development occurring on it, this is not itself an indicator of any particular zone or mixture of zones becoming more or less likely to occur. Access to the land-locked site even under its current zoning and use is just as relevant an issue for its current and future owners.

4.28. Accordingly and for the purposes of PC54, ascertaining the potential adverse effects that a road linkage to Sticky Forest might reasonably give rise to within the NSZ is an uncertain matter because there is no obvious basis to identify what future traffic generation might be generated by what types of future development.

Why has PC54 been requested?

4.29. As touched on earlier, one of the motivators for NIL to lodge PC54 was interest from the Crown for access to be provided to Sticky Forest as a part of its ongoing Treaty settlement and redress activities. NIL volunteered an *Augier* condition of consent (#47) as part of its Northbrook Retirement Village Fast Track consent application. Should the Panel be interested (although I do not see it as essential reading), I refer to the Expert Consenting Panel's decision on that application as it sets out in some detail the background to the matter. Related to Condition 47 was Condition 48, which imposes a need for NIL to create an Access Deed so as to enable, amongst other things, suitable public access along any such route(s) to Sticky Forest as may arise. For convenience, Conditions 47 and 48 from the Fast Track resource consent are:

47. *These consents shall not be implemented by the consent holder until and unless:*
 - a. *A request for a private plan change (**PPC Request**) is lodged with the Council in respect of the undeveloped land owned by Northlake Investments Limited located east of, and adjoining, the land referred to as 'Sticky Forest' legally described as Section 2 of 5 Block XIV Lower Wanaka Survey District; and*
 - b. *The PPC Request includes provision for a legal route for road access (including a route for other infrastructure services) connecting Sticky Forest to roading and other infrastructure services already installed within the Northlake Special Zone (**Sticky Forest Access**) to enable the servicing of development enabled within Sticky Forest; and*
 - c. *Accompanying the PPC Request is an executed deed to secure and implement the Sticky Forest Access (**Access Deed**).*

48. *The Access Deed shall:*
- a. *Be executed by the consent holder and/or any other owner of any part of the land across which the Sticky Forest Access will run (as grantor of the Sticky Forest Access);*
 - b. *Provide for either or both of the Council and the Crown (in its capacity as the owner of Sticky Forest) to execute the Access Deed as a party which will benefit from the Access Deed;*
 - c. *Ensure that no aspect, right or obligation arising under the Access Deed shall in any way hinder or inhibit the ability of the consent holder to develop the land subject to this consent in accordance with the Operative District Plan provisions applicable to that land as at the date of the Access Deed, except to the extent necessary to implement the Sticky Forest Access;*
 - d. *Grant the following easements in favour of the Council (in gross) and/or the Crown (appurtenant to Sticky Forest):*
 - i. *a right of way;*
 - ii. *a right to convey water, electricity, gas and telecommunications; and*
 - iii. *a right to drain water and sewage,*

in respect of the part of the land necessary to create the Sticky Forest Access, relying upon the rights and powers implied for those classes of easement as prescribed by the Land Transfer Regulations 2018 and Schedule 5 of the Property Law Act 2007 (Easements), and provide for those easements to be registered;
 - e. *Provide for the land required for Sticky Forest Access to be vested in the Council as legal road, at the Council's discretion;*
 - f. *Not contain any positive obligation on the Council and/or the Crown or the consent holder to carry out any works to form any part of the road or other infrastructure enabled by the Sticky Forest Access, provided that the Council and/or the Crown and the consent holder shall be entitled to carry out any such works at their discretion;*
 - g. *Provide for the inclusion in those easements of any terms or conditions required by the Council and/or the Crown as grantee provided that such terms and conditions do not breach subclause c. above;*
 - h. *Include provision for the consent of any mortgagee, encumbrancee or other person having an interest in the land whose consent will be required to enable the implementation of the Access Deed;*
 - i. *Be executed by the persons or entities referred to the preceding subparagraph;*

- j. *Be conditional only upon:*
 - i. *Sticky Forest being zoned to enable any form of development which requires the Sticky Forest Access to enable that development to be implemented;*
 - ii. *The Sticky Forest Access being approved through, and as a consequence of, the PPC Request.*

4.30. The purpose of Condition 47 was for NIL to commit to making a request for a Plan Change, which it has done and on what appears to be a genuine and good-faith basis. The Access Deed is a separate and private instrument related to the 'nuts and bolts' of any future Sticky Forest access, and is not a matter that the PC54 Panel needs (or has powers) to further consider. In my opinion it should be categorised as a form of resource management side agreement.

4.31. Conditions 47 and 48 do not in any way limit or affect the Council's RMA Consent Authority duties to consider and determine the PC54 request, and the Panel has an unrestricted power to recommend the Council approve, approve with modifications, or decline the request.

4.32. In my opinion and on this basis, the above conditions and the Northbrook Retirement Village resource consent more generally have no further relevance to the Panel's consideration of PC54.

5. STATUTORY CONTEXT

5.1. NIL provided a statutory assessment of its request in the application documents and Clause 23 response dated 25 March 2022, and has provided an evaluation report prepared for the purposes of s.32 of the RMA.

Resource Management Act 1991

5.2 The Resource Management Act 1991 (**the RMA**) sets out the statutory framework for considering the rezoning request and associated submissions. Relevant sections address functions of territorial authorities (section 31); requirements for evaluation reports and further evaluation reports (section 32 and 32AA); purpose of district plans (section 72); preparing and changing district plans (section 73); matters to be considered by a territorial authority when changing a district plan (section 74); contents of district plans (section 75); and district plan rules (section 76).

5.3 Guidance has been provided by the Courts across several decisions as to the statutory requirements that apply to re-zoning requests. A key authority is *Colonial Vineyard*

Limited v Marlborough District Council [2014] NZEnvC 55, with additional direction provided by subsequent higher order decisions, including but not limited to the decision of the majority of the Supreme Court in *Environmental Defence Society v The New Zealand King Salmon Company Limited* [2014] NZSC 38. More recently, the key tests for a District Plan change were re-stated in *R Adams and others v Auckland Council* [2018] NZEnvC 008 and again locally in *Bridesdale Farm Developments Ltd v Queenstown Lakes District Council* [2021] NZEnvC 189.

5.4 In summary the key tests arising from the cases identified above are whether the proposed provisions:

- (a) accord and assist the Council in carrying out its functions and achieve the purpose of the RMA (s 74(1));
- (b) accord with Part 2 of the RMA (s 74(1)(b));
- (c) give effect to the regional policy statement (s 75(3)(c));
- (d) give effect to a national policy statement (s 75(3)(a));
- (e) in the case of rules, have had regard to the actual or potential effects on the environment, including, in particular, any adverse effect (s76(3));
- (f) in the case of objectives, are the most appropriate way to achieve the purpose of the Act (s32(1)(a));
- (g) in the case of policies and methods, are the most appropriate way to achieve the objectives, having regard to their efficiency and effectiveness (s32(1)(b)) and taking into account (under s32(2)):
 - (i) the benefits and costs of the proposed policies and methods; and
 - (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules of other methods.

5.5 I note that NIL identified a number of reasons to support PC54 based on a consideration of Part 2 of the Act. I consider this does relate to s.74(1) of the RMA and is directly relevant to Section 8 of the RMA because of the history of Sticky Forest and the motivation to provide access to it through the NSZ via PC54. Section 8 of the RMA states:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

- 5.6 But overall and in summary, I have followed the above tests in evaluating the submissions and further submissions.

Section 32 evaluation

- 5.7 As a part of NIL’s s.32 RMA evaluation, it provided an assessment of alternative sites and locations outside of the NSZ that could potentially accommodate a road link to Sticky Forest. This is set out at section 3.2 of the Brown & Company Planning Group report (Document 4 of the application set), 3 February 2022. The consideration of “reasonably practicable options” is prescribed by s.32(1)(b)(i) of the RMA and is limited to those that might achieve the identified Plan objectives. It states that an evaluation must (my emphasis added):

*“examine whether the provisions in the proposal are the **most appropriate way to achieve the objectives** by—*

- (i) identifying **other reasonably practicable options for achieving the objectives**; and*
- (ii) ...”*

- 5.8 I acknowledge that NIL has in this respect offered a high-level but comprehensive appraisal of that matter. I note that one submitter has raised a concern relating to potential future access from Sticky Forest to Kirimoko¹⁴. For my part, I have also and in a general way turned my mind to the question of what other or additional access points over and above PC54 might be plausible, even if only to give myself a gauge of how important the PC54 connection might be in the overall scheme of un-land-locking Sticky Forest. I am comfortable that, at least in-principle, numerous connections to Sticky Forest could prove achievable, subject to various constraints. But there is nothing to suggest that PC54 represents the only access that could ever be achieved to Sticky Forest.

- 5.9 The question of whether a private plan change should include consideration of off-site alternative locations is one that has been grappled with by the Courts. The matter was recently addressed by the High Court in *Southern Cross Healthcare Ltd v Eden Epsom Protection Society Incorporated and Ors* [2023] NZHC 948 (at 148-154). As part of its

¹⁴ Kirimoko No. 3 Limited Partnership.

review of a decision made by the Environment Court, the High Court summarised the general practice that the RMA does not require consideration of alternative sites as a matter of course, but that for private plan changes and depending on the nature and context of each, there may be circumstances that make such a consideration necessary.

- 5.10 I have come to the opinion that NIL's consideration of 'off-NSZ' alternatives was not necessary. The scope of PC54 is very site-specific insofar as it is spatially limited to land within the NSZ subject to Chapter 12 of the ODP. The reasons that have led to the request being made (including the Northbrook Retirement Village Fast Track consent) are also limited to land within the current NSZ. In the case of PC54, all of the resource management objectives at play are channelled through the NSZ itself and I cannot see how outcomes outside of the NSZ could fall within the reasonable scope or ambit of either the request generally, or the NSZ objectives specifically.
- 5.11 That is to say, PC54 is not a plan change seeking to address the question of providing access to Sticky Forest generally; it is limited to the question of providing access to Sticky Forest from within the NSZ specifically. It follows that any options to achieve the objectives beyond and outside of the NSZ would not in my opinion be relevant or "reasonably practicable".
- 5.12 Following on from that and for completeness, there is nothing in PC54 - assuming for the purpose of this point that it was to be accepted in some form – that would preclude or prevent whatever separate and additional access(es) to Sticky Forest as that land's owners may seek from being considered in due course.

Local Government Act 2002

- 5.13 Sections 14(c), (g) and (h) of the Local Government Act 2002 are also of relevance in terms of policy development and decision making:

- “(c) when making a decision, a local authority should take account of—*
- (i) the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) the interests of future as well as current communities; and*
 - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):*
- ...
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and*

- (h) *in taking a sustainable development approach, a local authority should take into account—*
 - (i) *the social, economic, and cultural interests of people and communities; and*
 - (ii) *the need to maintain and enhance the quality of the environment; and*
 - (iii) *the reasonably foreseeable needs of future generations.”*

National Policy Statements

5.14 NIL has identified that only the National Policy Statement on Urban Development (**NPS-UD**) and the National Policy Statement on Freshwater Management (**NPS-FM**) are relevant to PC54. I agree with that assessment.

5.15 In terms of the NPS-UD, Queenstown Lakes District is identified as a Tier 2 local authority, and Wānaka (including the NSZ) is an urban environment.

5.16 PC54 is spatially small and applies to an existing urban zone that was enabled with up to approximately 1,600 dwellings in mind. It has the effect of providing up to 63 additional dwellings' worth of housing capacity to Wānaka of a scale, intensity and character that is consistent with what has been consented adjacent to the new AAB6 area. It does not in my opinion represent a strategic shift in Wānaka and is otherwise sufficiently small that it does not warrant an exhaustive NPS-UD assessment. Of most particular relevance to PC54 are Objectives 1, 4, 5 and 6. Relevant to the enablement of a new road link to Sticky Forest and a reconsideration of the existing north-western corner of the NSZ that are the subject of PC54, Objectives 4 and 6 state:

“Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

...

Objective 6: Local authority decisions on urban development that affect urban environments are:

- (a) *integrated with infrastructure planning and funding decisions; and*
- (b) *strategic over the medium term and long term; and*
- (c) *responsive, particularly in relation to proposals that would supply significant development capacity.”*

5.17 NPS-UD Policies that are particularly relevant to the matters raised in PC54 are 1 (including the elements that constitute a well-functioning urban environment), 6, 9, and 10. Because of the background to Sticky Forest and the reasons why NIL has requested PC54, Policy 9 states:

“Policy 9: Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:

- (a) involve hapū and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and*
- (b) when preparing RMA planning documents and FDSs, take into account the values and aspirations of hapū and iwi for urban development; and*
- (c) provide opportunities in appropriate circumstances for Māori involvement in decision-making on resource consents, designations, heritage orders, and water conservation orders, including in relation to sites of significance to Māori and issues of cultural significance; and*
- (d) operate in a way that is consistent with iwi participation legislation.”*

5.18 For completeness, the National Policy Statement on Highly Productive Soils (**NPS-HPL**) does not in my opinion apply to PC54. The NSZ is a Special Purpose Zone for the purposes of the definition of “urban” within the NPS-HPL. Although the NSZ includes ‘pockets’ of differing housing density and open space, it has always been treated as an integrated and in my opinion plainly urban zone albeit one with a bespoke and landscape-sensitive urban form pattern. It would not be correct to interpret that Activity Area E1, in particular, could be ‘cut out’ from the remainder of the NSZ and treated as if it were a rural or production-type zone (supporting this view, I also note that all of the NSZ is within the PDP’s identified Wānaka Urban Growth Boundary).

Regional Policy Statements

5.19 NIL has identified that the partially-operative Otago Regional Policy Statement 2019 (**PORPS19**) and the proposed Otago Regional Policy Statement 2021 (**pRPS21**) (using NIL’s abbreviations) apply to PC54. I am in agreement with NIL’s assessment. Given the modest scale of PC54 and that it affects an existing urban zone, I do not consider any further direct analysis of PC54 against these high-level planning documents is required.

- 5.20 A distinction is that pursuant to ss. 74 and 75 of the RMA, the PORPS19 must be given effect to (where it is operative); whereas the pRPS21 and those non-operative parts of the PORPS19 must be had regard to.
- 5.21 For reference, particularly relevant to PC54 from the PORPS19 are Policies 1.1.2, 1.2.1, 2.1.2, 2.2.3, 3.1.1, 3.1.8, 3.1.12, 3.2.6, 4.1.5, 4.1.6, 4.1.7, 4.3.1, 4.4.6, 4.5.1, 4.5.2, 4.5.3, and 4.5.4.

Regional Plans

- 5.22 NIL has identified that the Otago Regional Plan: Water and Otago Regional Plan: Air are relevant to PC54 to the extent that under s.75(4) of the RMA, the Queenstown District Plan must not be inconsistent with those. I am in agreement with NIL's assessment and consider no additional analysis of PC54 against these documents is necessary.

Queenstown Lakes District Plan

- 5.23 NIL initially provided an assessment of PC54 against the ODP only, in terms of chapters 4.2 (landscape and Visual Amenity), 4.9 (Urban Growth), and 12.33 (NSZ). As part of a Clause 23 response to the Council, NIL also provided an analysis of the PDP in terms of chapters 3 (Strategic Direction) and 5 (Tangata Whenua).
- 5.24 I do not entirely agree with NIL's analysis.
- 5.25 The PDP is being progressively made operative. In my opinion the ODP chapters relevant to PC54 are limited to 12 (Special Zones) and 15 (Subdivision). The strategic Plan framework that applies is that from the PDP, namely chapters 3, 4 and 5. I disagree that ODP chapters 4.2 and 4.9 need to be considered by the Panel.
- 5.26 However and notwithstanding this, I have reviewed the ODP chapters assessed by NIL and am satisfied that they do not contain anything so different from the equivalent chapters within the PDP that would turn any point of my analysis or recommendations in any event. Insofar as they each relate to PC54, the ODP and PDP can be regarded as possessing very comparable policy goals.

Iwi Management Plans

- 5.27 The Kāi Tahu Ki Otago Natural Resource Management Plan 2005 and The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 are the relevant iwi management plans for the District.

- 5.28 NIL considers that PC54 is consistent with these.
- 5.29 Chapter 5 of the PDP also took into account the management plans and I note NIL has also provided an analysis of its request against that..
- 5.30 Lastly, I note that NIL consulted with mana whenua groups, and feedback from Aukaha and Te Ao Marama iwi authorities was provided as part of a NIL Clause 23 response to the Council. Te Rūnanga o Ngāi Tahu did not provide feedback however is a submitter to PC54. I note that all three of the iwi authorities are supportive of a road access being provided to Sticky Forest (at a Collector Road standard). No specific concerns have been identified by any of the iwi authorities relating to the iwi management plans.

6 SUBMISSIONS AND FURTHER SUBMISSIONS

- 6.1 PC54 was publicly notified on 27 October 2022 and attracted 31 submissions.
- 6.2 The Council notified a summary of submissions on 9 February 2023, and 4 further submissions were received.
- 6.3 Submission 21, from WFH Properties Ltd, attracted Further Submissions in opposition from Ironwood Trust (sub # 32), NIL (sub # 34), and The Peak View Ridge Lot Owners (sub # 35). On 17 May 2023, WFH Properties Ltd withdrew its submission and I have on that basis disregarded it. I have also on that basis given no further consideration to the further submissions of Ironwood Trust and The Peak View Ridge Lot Owners, or those aspects of the NIL further submission addressing the WFH Properties Ltd submission.
- 6.4 S.41D RMA provides circumstances in which submissions may be struck out. Jurisdictionally, other than as discussed in 6.3 above, no submissions or further submissions were received late or in a manner that would otherwise render them inappropriate or unusable. Some of the matters raised do ask questions of PC54's scope that the Panel will need to determine. But in my opinion none of the submissions or further submissions are so deficient or irrelevant that they should be struck out simply on the grounds that they would impede an expeditious and fair hearing into PC54. I have in any event evaluated and commented on all of the issues raised in all of the submissions and further submissions on merit.
- 6.5 The principal issues raised in the submissions and further submissions can be summarised as follows:

Future development of Sticky Forest

- a. Withhold road access to Sticky Forest for the purpose of helping retain it as recreational / natural land¹⁵.

Landscape and visual or amenity effects

- b. No additional houses in NSZ or loss of the E1 area¹⁶.
- c. Any additional houses should be below the water reservoir¹⁷.

Transportation effects

- d. Provide no access to Sticky Forest or provide access to Sticky Forest only via a Council-led process¹⁸.
- e. Provide access to Sticky Forest as proposed and support PC54¹⁹.
- f. Provide access to Sticky Forest with amendments and support a modified PC54²⁰.
- g. Avoid any future road connection between Sticky Forest and Kirimoko²¹.
- h. Adverse future forestry / logging effects within the NSZ²².
- i. Adverse traffic effects of the additional dwellings within the NSZ²³.
- j. Adverse traffic effects of future Sticky Forest users²⁴.

Infrastructure effects

- k. Adverse stormwater effects (including erosion and sedimentation within the Hikuwai DOC reserve / Mata-Au Clutha River)²⁵.
- l. Adverse water supply effects²⁶.
- m. Non Complying activity status for all proposals lacking sufficient infrastructure²⁷

¹⁵ Kostya Marchenko (1), Ben Akin-Smith (4), Jacky Toepfer (6), Berit Landgraf (9), Emily Duguid (11), Barbara Beable (12), Timothy Skima (13), Mike Toepfer (14), Hamish Rudhall (17), Matt Lewis (18), Stephen Dennis (23), Bike Wanaka Inc (24), Joanna Ashe Marasti (26), Pierre Marasti (27), Janet Musker (29).

¹⁶ Jacky Toepfer (6), Janet Young (7), Oliver Young (8), Berit Landgraf (9), Tim Sanders (10), Barbara Beable (12), Timothy Sikma (13), Matt Lewis (18), Stephen Dennis (23), Janet Musker (29), John Wellington (30).

¹⁷ Chris Arbuckle (19), Don McKinlay (25).

¹⁸ Kostya Marchenko (1) (no access), and Mike Toepfer (14) (access only via public plan change).

¹⁹ Theo Bunker and Lorraine Rouse (15).

²⁰ Te Arawhiti – Office for Māori Crown Relations (20), Te Rūnanga o Ngāi Tahu (22).

²¹ Kirimoko No. 3 Limited Partnership (28).

²² Kostya Marchenko (1).

²³ Janet Young (7), Oliver Young (8), Berit Landgraf (9), Graeme McGlinn (16), Queenstown Lakes District Council (31).

²⁴ Berit Landgraf (9), Graeme McGlinn (16).

²⁵ Chris Arbuckle (19), Don McKinlay (25), Joanna Ashe Marasti (26), Pierre Marasti (27), Janet Musker (29), Queenstown Lakes District Council (31).

²⁶ Queenstown Lakes District Council (31).

²⁷ Queenstown Lakes District Council (31).

Other or consequential matters:

- n. There is no need for PC54²⁸.
- o. Reject PC54 until more information depicting the entirety of NSZ and Sticky Forest development plans are available²⁹.
- p. Reject PC54 and undertake a public plan change to consider Sticky Forest and NSZ comprehensively³⁰.
- q. Reject PC54 because it provides no community benefits but will add future ratepayer costs³¹.
- r. Dust and noise effects from construction of future development³².
- s. Create a fire break along the Sticky Forest boundary³³.
- t. Change reference from Sticky Forest to Hawea/Wānaka – Sticky Forest³⁴.
- u. Oppose PC54 with no stated reasons³⁵.

7 ANALYSIS

- 7.1 The following analysis addresses both the effects on the environment of the plan change and the appropriateness, costs and benefits of the plan change request in terms of the relevant national, regional and district plan provisions and objectives. All of the provisions sought to be modified have been considered in terms of section 32 of the Act. Where modifications are recommended, I have specifically considered the obligations arising under s32AA.
- 7.2 PC54 affects a spatially quite small area of land that already has an urban zone. It will not result in environmental effects that could be measured at the scale of Wānaka as a whole or the District as a whole. It does not give rise to issues that I consider to be of regional scale or significance.
- 7.3 NIL has provided an assessment of effects in a document with that name (Document 3 in the application set) addressing the following:
- a. Effects in relation to urban land supply and growth;
 - b. Effects in relation to traffic;
 - c. Effects in relation to infrastructural services;
 - d. Effects in relation to council reserves;
 - e. Effects in relation to geotechnical conditions and natural hazards;

²⁸ Matthew Jackson (2), Ben Akin-Smith (4).

²⁹ Fiona Abbott (3).

³⁰ Bike Wanaka Inc (24) and Kirimoko No. 3 Limited Partnership (28).

³¹ Janet Musker (29).

³² Barbara Beable (12).

³³ Chris Arbuckle (19), Don McKinlay (25).

³⁴ Te Rūnanga o Ngāi Tahu (22).

³⁵ Henry Taylor (5).

- f. Effects in relation to soil contamination;
- g. Effects on cultural, archaeological and heritage values;
- h. Effects on ecological values;
- i. Effects on landscape character and visual amenity values;
- j. Effects on surrounding land owners;
- k. Positive effects.

7.4 Based on my assessment of the above issues and also the issues raised by the submitters and further submitters, I am in agreement with the conclusions reached by NIL in terms of effect categories (a), (d), (e), (f), (g), (h), (j), and (k), subject to the following additional comments:

- a. In terms of effects on surrounding landowners, I do not agree with the conclusions expressed by NIL in regard to Allenby Farms Limited land (WFH Properties Ltd). Although PC54's modified "required roads" component would connect to two roads provided on the approved Allenby Farm Outline Development Plan RM180502, that Outline Development Plan and its provision of transport infrastructure – assuming it gets delivered in time as per that consent - was premised on, at most, only the volume of traffic likely to arise from the existing NSZ Activity Areas (approximately 64 dwellings). PC54 would effectively double that within the NSZ north of the Allenby Farm site, with an unknown but potentially substantial additional traffic load over and above that possibly also entering from Sticky Forest in the future.
- b. The adverse traffic and associated amenity effects of what could result through the Allenby Farm site could be significant, noting that some submitters have requested the road link provided to Sticky Forest to be of a collector road standard (capable of accommodating the traffic of up to 800 dwellings in the QLDC Code of Practice).
- c. I will address this matter further in the later transportation effects section.

8 FUTURE DEVELOPMENT OR USE OF STICKY FOREST

- 8.1 PC54 seeks to amend the NSZ Structure Plan to show a required road link connecting Northlake Drive (existing) to Sticky Forest's boundary via Riverslea Road and Stonehenge Road.
- 8.2 This is supported by a proposed Non Complying activity rule in Chapter 15 of the ODP (15.2.3.4(xx)) triggered when any subdivision proposed within AAB6 does not require, by condition of consent, the legal establishment of legal vehicle access to Sticky Forest.

- 8.3 Many submitters have requested that road access to Sticky Forest be withheld, specifically so as to help retain it as recreational / natural land³⁶.
- 8.4 This has been opposed by the further submissions of Te Arawhiti – Office for Maori Crown Relations, and NIL.
- 8.5 PC54 would provide for one point of access to Sticky Forest by way of amendments to the existing NSZ. It is in my opinion fair and reasonable to surmise that any development potential on Sticky Forest that might come to be enabled (through processes separate to PC54) would struggle to be taken up in the absence of sufficient and requisite access being available to the land.
- 8.6 The PDP process, which included a public submission made by Michael Beresford seeking an urban zone on Sticky Forest, was a public process and it included the opportunity for any person to lodge a further submission either in support or opposition to Mr. Beresford. The PDP process has led to an Environment Court appeal that is the subject of a separate ongoing process. That was and is the proper forum to consider the most appropriate use and development framework for Sticky Forest. It is not in my opinion correct to seek to use PC54 to potentially re-litigate or countermand that, and I see no scope within PC54 to consider or comment on what zone or zones could or should apply to Sticky Forest.
- 8.7 Notwithstanding that, declining PC54 - or at least declining the part of it that would enable a road connection to Sticky Forest to be provided - for the express reason of seeking to undermine Sticky Forest's future use, for whatever activities might come to be found to be appropriate on it - would not be in my opinion a defensible or valid exercise of resource management authority related to PC54. I can find no support for that action in any of the objectives or policies that apply to PC54 in either of the PDP, ODP, Regional Plans or Regional Policy Statements. To the extent that the principles of local government apply under the Local Government Act 2002, the Panel might also consider whether it would be acceptable conduct for a Council to seek to keep land known to be land-locked 'captive' in an undeveloped state by purposefully denying reasonable access to it.
- 8.8 In any event, the question of providing access to a land-locked site is not solely relevant to whatever future development potential the current or future landowners may desire. Providing for access is relevant also from the point of view of the existing zone and the

³⁶ Kostya Marchenko (1), Ben Akin-Smith (4), Jacky Toepfer (6), Berit Landgraf (9), Emily Duguid (11), Barbara Beable (12), Timothy Skima (13), Mike Toepfer (14), Hamish Rudhall (17), Matt Lewis (18), Stephen Dennis (23), Bike Wanaka Inc (24), Joanna Ashe Marasti (26), Pierre Marasti (27), Janet Musker (29).

land's reasonable use and enjoyment today, such as for recreational or maintenance access by the land's owner. Even if the land were to remain as a forested publicly-accessible recreation area in the way that many submitters have described that preference, there is still a sound case that direct vehicle access to it should be provided for.

8.9 I also agree with the analysis provided by NIL in its assessment of PC54, including in terms of Part 2 of the Act and in terms of the significance of Sticky Forest to the Crown's Treaty redress obligations (s.8 RMA). I consider that reasonable and suitable vehicle access to Sticky Forest is essential to enabling the wellbeing of the land's eventual owners and users. PC54 offers one logical means of access to Sticky Forest, although I would note that the question of how and in what circumstances such an access might be delivered so as to manage its potential effects within the NSZ will be separately addressed in my later transport effects section.

8.10 In my opinion providing for road access to Sticky Forest will better promote sustainable management than not doing so, and is consistent with NSZ objective 12.33.2(3), which seeks:

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

8.11 “Networks” is not defined in the objective, but could mean any or all combinations of roads, trails, tracks, or cycle-paths such as do exist within Sticky Forest and that the PC54 proposed access could in time connect with. Following on from this, the specific additions requested by NIL to policy 12.33.2(3.1) are supported because they capture the explicit connection with Sticky Forest that is proposed to be shown on the Structure Plan, and because the policy is otherwise limited to “existing development” and the “existing road network”.

8.12 As a result of the above:

- a. I have no recommendations relating to NIL's proposed PC54 provisions arising from this issue.
- b. I recommend that the submission points seeking to reject PC54 or reject that part of it that would enable a road connection to Sticky Forest for the purposes of limiting the land's future use or development be **rejected** for the reasons above.
- c. I recommend that the further submissions points supporting enablement of a road access to Sticky Forest be **accepted in part**. Although there are sound

reasons to support the enablement of a suitable road access to Sticky Forest, there are design and performance characteristics relevant to how such a road should be provided that will be addressed in my later transport effects section, with modifications to the notified PC54 also recommended in that section.

9 LANDSCAPE AND VISUAL OR AMENITY EFFECTS

9.1 The proposal would have the effect of removing part of the existing AAE1 as a generally open and landscaped area, replacing it with an enlarged area of suburban residential dwellings up to 10-dwellings per hectare. This typically manifests as allotments ranging between 750m² – 1,250m². The change could be from as much as 64 up to as much as 127 residential allotments. Removal of part of an existing Building Restriction Area adjacent to Sticky Forest would also occur as part of this.

9.2 NIL has provided a landscape and visual assessment from Patch Ltd. Patch Ltd has concluded that³⁷:

The proposal seeks to extend urban development into a part of Activity Area E1. This part of the NLSZ is low lying, surrounded by landform on three sides and a level of residential development is already anticipated in this area. It is considered the encroaching of urban character into this part of the landscape will adversely affect the visual amenity and landscape character values of the site and surrounding landscape to a no more than low extent.

9.3 Particularly relevant to my consideration of this issue are PDP objectives 3.2.2.1, 3.2.4.3, 3.2.5.3, 4.2.2B, and 4.2.2.2; ODP objectives 12.33.2(1), 12.33.2(2.1) and 12.33.2(4), and policies 12.33.2(1.4), 12.33.2(2.3), 12.33.2(2.4), 12.33.2(2.5), and 12.33.2(4.1). Consistency with these key provisions will be sufficient in my opinion to also implement the RPS', NPS-UD and Part 2 of the Act with no further direct analysis of those documents needed in that scenario.

9.4 The submissions and further submissions raised two key issues relevant to landscape and visual or amenity effects:

- a. That there should be no additional houses in the NSZ or loss of the E1 area³⁸.
- b. That any additional houses should be below the water reservoir³⁹.

³⁷ Patch Ltd., *Landscape Assessment Report – Northlake Plan Change Request*, 20 January 2022, section 6.1.

³⁸ Jacky Toepfer (6), Janet Young (7), Oliver Young (8), Berit Landgraf (9), Tim Sanders (10), Barbara Beable (12), Timothy Sikma (13), Matt Lewis (18), Stephen Dennis (23), Janet Musker (29), John Wellington (30).

³⁹ Chris Arbuckle (19), Don McKinlay (25).

- 9.5 The further submissions of NIL opposed the above concerns.
- 9.6 Ms. Mellsop has reviewed the submissions, the PC54 documentation including the report prepared by Patch Ltd (Mr. Stephen Skelton), and visited the Site.
- 9.7 Ms. Mellsop agrees with much of the Patch Ltd assessment, but has made a number of recommendations to address potential landscape or visual effects. I prefer the conclusions of Ms. Mellsop and I note that unlike Patch Ltd, Ms. Mellsop identified PDP and ODP provisions relevant to landscape matters as a part of her assessment. I also agree with Ms. Mellsop's observation that proposed AAB6 appears to extend to or beyond 400masl in places, an elevation exceeding the 384masl that Patch Ltd considered.
- 9.8 I have also visited the Site and specifically the ridge directly above the water reservoir. In my opinion and with modifications, PC54 will provide for a modest increase in urban development and a loss of previously identified un-built space. Noting that the existing AAB2 and AAC1 did already enable up to approximately 64 residential allotments, I do not consider the change proposed to be of a scale that would make a significant difference in the overall urbanised / future view of the ridge and lake environs likely to eventuate.
- 9.9 In terms of Ms. Mellsop's recommendations, I have reached my own conclusions as follows:
- a. I agree with Ms. Mellsop that PDP provision 3.2.5.5 is relevant but I disagree that 4.2.1.5 is relevant (PC54 does not seek to change an Urban Growth Boundary or "extend" Wanaka). I also agree that within the ODP, objective 12.33.2(4) and its policy 4.1 are relevant. That policy states:

"To identify areas where buildings are inappropriate, including ridgelines, hilltops and other visually prominent landforms, and to avoid buildings within those areas."
 - b. Also relevant from the ODP is policy 12.33.2(2.1) to the extent that subject to my recommendation below, the reconfigured Activity Area boundaries will be consistent with using *"a Structure Plan to establish... Areas where buildings are prevented from occurring due to landscape sensitivity."*
 - c. I agree with the desirability of, but disagree with the necessity of, retention of a small pocket of AAE1 adjoining AAE4 on the Allenby Farm site (paragraph 14 and Figure 2 in Ms. Mellsop's review). It would only be users within the NSZ

likely to see or experience this feature, and its naturalness would likely be affected in any event by the development adjacent to it on the new AAB6 as well as the road to Sticky Forest. Noting that viewers would also likely see new dwellings within AAB6 in front of the slope toe of interest to Ms. Mellsop, I disagree that any adverse effect or planning policy conflict of any particular severity is likely. I also consider that retaining flexibility here could be relevant to the provision of road access to Sticky Forest through future resource consent processes (a directly linear extension of Stonehenge Road westwards, albeit likely not following the land's contour as elegantly as the NIL proposal does, would avoid two tight 90-degree turns currently proposed, and in so doing potentially help unlock greater vehicular capacity for Sticky Forest).

- d. Ms. Mellsop has identified opportunities for enhanced native planting (paragraph 11) and limiting building height to avoid buildings breaching the ridgeline (paragraphs 9 and 10), but the recommendations do not lend themselves to a precise or clear conformance standard that could be added to ODP chapter 12. Instead, and noting that an Outline Development Plan would be required as a restricted discretionary activity for any residential activities, I recommend that a restriction of discretion for the AAB6 Outline Development Plan would be sufficient to ensure these matters can be addressed.
- e. On the basis of the above modifications I have identified as necessary, PC54 will not give rise to any inappropriate adverse landscape, visual or amenity effect, and will be consistent with the outcomes sought by the ODP, PDP, Regional Policy Statements, NPS-UD, and Part 2 of the Act.

9.10 I recommend the addition of a restriction of discretion applying to any Outline Development Plan application for AAB6 as follows at 12.34.2.3(i)(m):

"In the case of Activity Area B6:

1. *methods including building height and/or the location of allotment boundaries or building platforms to ensure no part of any building breaches the ridgeline as viewed from land and waters west of the zone; and*
2. *provision of landscaping, including on land within Activity Area E1 adjacent to the water reservoir, to mitigate the visual impact of development within Activity Area B6, including that part closest to the ONL boundary."*

9.11 I recommend that the submission points seeking to reject PC54 or reject that part of it that would enable the change to Activity Areas B2, C1 and E1 to create the proposed Activity Area B6 and refined C1 and E1 on the basis of landscape, visual, or amenity effects be **rejected** because the land is capable of accommodating the development

proposed in a way that will not have inappropriate adverse effects or inconsistency with outcomes sought by the relevant planning documents.

- 9.12 I recommend that the submission points seeking restriction on the placement of future dwellings so as to better protect landscape qualities and the ridgeline be **accepted in part** to the extent that modifications to PC54 have been recommended.
- 9.13 I recommend that the further submission points of NIL opposing the submitters be **accepted in part** to the extent that development broadly in line with what NIL has sought has been found to be acceptable, subject to modifications in relation to the ridgeline and landscape values of the adjacent ONL.

10 TRANSPORTATION

- 10.1 PC54 would enable two distinguishable transportation outcomes:
- a. The traffic effects resulting from the additional traffic generated within the NSZ arising from the new AAB6; and
 - b. The traffic effects resulting from the traffic generated within Sticky Forest on the NSZ network.
- 10.2 Changes to the Structure Plan to add “required road” linkages are shown to be solely within NIL-controlled parts of the NSZ, and correspond largely to existing or under-construction roads. However the addition of up to 63 additional dwellings within AAB6 and the traffic that could enter the NSZ from Sticky Forest do raise potential and wider traffic distribution effects across the NSZ that could affect the entirety of the transport network within the NSZ and its characteristics.
- 10.3 As noted previously, NIL also proposes a Non Complying activity rule in Chapter 15 of the ODP (15.2.3.4(xx)) triggered when any subdivision proposed within AAB6 does not require, by condition of consent, the legal establishment of legal vehicle access to Sticky Forest.
- 10.4 NIL has provided an expert traffic assessment from Carriageway Consulting Ltd (Mr. Andy Carr), dated February 2022. Mr. Carr comprehensively assessed the existing configuration of roads within the NSZ and the volumes of traffic likely from the existing and consented or envisaged dwellings approved to date (I refer to his Table 1, p 11 of his February 2022 report).
- 10.5 Mr. Carr concluded that PC54 would be acceptable although it is very important to note that his assessment only considered the additional traffic effects that development within the new AAB6 could give rise to (up to an additional 63 dwellings). Mr. Carr did

not consider the effects that any additional future traffic associated with Sticky Forest activities using the NSZ via the new PC54 road link might have on the NSZ.

10.6 In response to a Council request under Clause 23 of the RMA's First Schedule, Mr. Carr provided further commentary dated 31 May 2022. This provided additional assessment of how travellers might use the route options available through the NSZ. Although speculative, Mr. Carr also helpfully attempted to 'reverse engineer' a maximum theoretical capacity that might exist within the NSZ transport network over and above the consented or likely yield within the NSZ. Mr. Carr identified that if this was available for Sticky Forest, then that potentially could support a maximum of approximately 325 allotments on that land. The question of what mitigation measures or additional upgrades might be required within the NSZ to accommodate that, and how or by whom such actions might be implemented, were not specifically addressed. Mr. Carr also did not assume that any residential flats or other intensification within the NSZ might occur, which would consume some of the calculated 'surplus capacity' potentially available for Sticky Forest. In my opinion and although I would acknowledge I was greatly assisted by Mr. Carr's efforts, his suggestion that the NSZ transport network might be sufficient to support up to 325 allotments on Sticky Forest remains very uncertain and it should be approached with caution.

10.7 In addition, Ms. Morgan Shepherd, Brown and Company Planning Group Ltd, provided additional commentary dated 1 June 2022 relating to the potential adverse effects within the NSZ of what may be permitted activity logging activities within Sticky Forest arising from the NES – Plantation Forestry (**NES-PF**). In Ms. Shepherd's opinion (from her section 2.1):

Most of the access route anticipated by the Access Deed runs through the existing and proposed Northlake roading network which has been designed for residential use in a higher density residential environment. There would be significant difficulties and adverse effects associated with logging trucks using this access route. Larger trucks (both with and without trailers) simply cannot be accommodated through the road network at Northlake. Intersections are too tight and carriageways are generally too narrow. Whether this route could be used at all would depend upon the size, primarily length, of the logging trucks.

10.8 I consider that the NES-PF likely does apply to Sticky Forest in terms of the existing extents of the Rural Zone and UGB within the PDP. One reasonably foreseeable issue that could arise from PC54 proceeding as proposed could be traffic associated with permitted activity forestry seeking to use the NSZ on roads that might exist and have been fully vested (i.e., potentially not subject to any further resource management authorisations). This raises practical questions as to how in resource management

terms such potential adverse effects as identified by Ms. Shepherd might be addressed in that scenario.

10.9 In conclusion, I have interpreted that NIL's approach to its proposed Sticky Forest road link is that it would be affected by numerous limitations relating to both what might be permitted (forestry) activities today, and potential (possibly residential) activities in the future. Although NIL have not identified any, I have interpreted from the totality of NIL's information an assumption on its part that resource management methods or processes would be available to the Council that might allow it to manage potential adverse effects, including on the NSZ and its occupants, in each scenario.

10.10 Particularly relevant to my consideration of the above are PDP objectives 3.2.2.1, 3.2.6.1, 3.2.7.2, 4.2.2A, 4.2.2.1, 4.2.2.5; and ODP objectives 12.33.2(2), 12.33.2(3), and 12.33.2(6); and policies 12.33.2(2.1), 12.33.2(2.3), 12.33.2(2.4), 12.33.2(3.1), 12.33.2(3.6), 12.33.2(6.1), 12.33.2(6.2), and 12.33.2(6.3). I am comfortable that consistency with the above would be sufficient to implement the RPS' and NPS-UD. I recognise however that the provision of access to Sticky Forest is also very relevant to the Crown's on-going Treaty settlement and redress processes, and in that respect the Iwi Management Plans and Part 2 of the RMA are also relevant to my consideration.

10.11 The submissions and further submissions have identified the following key issues:

- a. Provide no access to Sticky Forest or provide access to Sticky Forest only via a Council-led process⁴⁰.
- b. Provide access to Sticky Forest as proposed and support PC54⁴¹.
- c. Provide access to Sticky Forest with amendments and support a modified PC54⁴².
- d. Avoid any future road connection between Sticky Forest and Kirimoko⁴³.
- e. Adverse future forestry / logging effects within the NSZ⁴⁴.
- f. Adverse traffic effects of the additional dwellings within the NSZ⁴⁵.
- g. Adverse traffic effects of future Sticky Forest users⁴⁶.

10.12 I will address these below.

⁴⁰ Kostya Marchenko (1) (no access), and Mike Toepfer (14) (access only via Council-led plan change).

⁴¹ Theo Bunker and Lorraine Rouse (15).

⁴² Te Arawhiti – Office for Māori Crown Relations (20), Te Rūnanga o Ngāi Tahu (22).

⁴³ Kirimoko No. 3 Limited Partnership (28).

⁴⁴ Kostya Marchenko (1).

⁴⁵ Janet Young (7), Oliver Young (8), Berit Landgraf (9), Graeme McGlenn (16), Queenstown Lakes District Council (31).

⁴⁶ Berit Landgraf (9), Graeme McGlenn (16).

Provide no access to Sticky Forest or provide access to Sticky Forest only via a Council-led process

10.13 Kostya Marchenko (1) seeks no access to Sticky Forest be provided. Mike Toepfer (14), seeks that access to Sticky Forest not be addressed via PC54 and that a separate Council-led process should address it.

10.14 These have been opposed by the further submissions of NIL.

10.15 In terms of the submission of Kostya Marchenko (1):

- a. Although the submitter has identified a potential alternative access to Sticky Forest along an apparent water tank maintenance road this has not been confirmed as a plausible or suitably public route. As far as I can ascertain, a dirt-road / track can be identified from aerial photographs extending from the northern end of Peak View Ridge (a private road), through the Allenby Farm site to the Beacon Point Reservoir above the Kirimoko Bike Trails and then northwards along the eastern edge of Sticky Forest, on that site, to what appears to be a criss-cross of trails at Outlet Road.
- b. On the assumption that I have correctly identified what the submitter had in mind, Sticky Forest – at approximately 50ha – is of a size that would ideally be served by numerous future access points. Even if the submitter's route is a plausible potential option, I consider that the merits of PC54 providing an additional access would still require the Panel's consideration. The submitter has not given me a reason to conclude that no road link from the NSZ to Sticky Forest at all could be appropriate.
- c. There are also jurisdictional issues relating to the now-withdrawn submission from WFH Properties Ltd and concerns raised by further submitters The Peak View Ridge Lot Owners and The Ironwood Trust relating to the use of Peak View Ridge as a public road. Although these further submitters elected to not oppose the submission of Kostya Marchenko, the submission nonetheless raises similar issues as led the further submitters to oppose the original WFH Properties Ltd submission. In my opinion there is a jurisdictional and merits problem with seeking to require or presume that Peak View Ridge – which is outside of the NSZ - will form part of the public road network available to Sticky Forest (or the NSZ) at this time.

10.16 In terms of the submission of Mike Toepfer (14):

- a. In the first instance, I do not see a basis to decline that aspect of PC54 that would enable a connection to Sticky Forest for the reason that a public plan change process might be superior. I consider that the RMA requires PC54 to be evaluated on its own merit.
- b. In any event, I am not aware that the Council has any plans to undertake a Plan Change to specifically reconsider access to Sticky Forest and I do not consider the Panel has any power to direct such a process, in the event that it came to agree with the Submitter's sentiment. There is also nothing in PC54, whatever the Panel ultimately recommends, that would prevent the Council or other parties (including the owner(s) of Sticky Forest) promoting separate access(es) to Sticky Forest from land outside of the NSZ should they seek that.
- c. Lastly, I note that new roads, including the PC54 roads, do not require a Plan Change before they can be considered (in the same way that most of the roads that have been formed within the NSZ were not specified on the Structure Plan). If PC54 were to be declined, it would still be possible for NIL to seek resource consents to establish the road network it is proposing, albeit by way of a different resource consent pathway than NIL is seeking through PC54.

10.17 I recommend no modifications to PC54 arising from these submissions.

10.18 I recommend the submission points be **rejected** and the further submission points be **accepted** for the reasons set out above.

Provide access to Sticky Forest as proposed and support PC54;

**Provide access to Sticky Forest with amendments and support a modified PC54;
and**

Adverse traffic effects of future Sticky Forest users within the NSZ

10.19 Theo Bunker and Lorraine Rouse (15) seek that access to Sticky Forest as proposed by NIL be accepted.

10.20 Te Arawhiti – Office for Māori Crown Relations (20), and Te Rūnanga o Ngāi Tahu (22) support PC54 but seek modifications to the provisions relating to a Sticky Forest access. In summary, the modifications sought are:

- a. Greater clarity within the Chapter 12 ODP policy framework around requirements that development and roads integrate with Sticky Forest.
- b. Specify that the connection to Sticky Forest must be of a collector road standard and also be an infrastructure corridor.

- c. Change the non-provision of a road to Sticky Forest from a Non Complying Activity to a Prohibited Activity (Te Rūnanga o Ngāi Tahu).
- d. Greater clarity within the Plan methods as to the timing and delivery of the Sticky Forest road connection (Te Arawhiti – Office for Māori Crown Relations).

10.21 NIL through its further submission is opposed to these modifications.

10.22 Berit Landgraf (9), and Graeme McGlenn (16) have otherwise identified concerns with potential effects within NSZ arising from additional traffic using the NSZ from Sticky Forest.

10.23 A key resource management issue relevant to the Panel's evaluation of the issues is that once a road connection to Sticky Forest is implemented, there appear to be no resource management instruments available in the PDP or ODP or PC54 as notified that would allow the effects of whatever traffic might exit Sticky Forest and enter the NSZ to be considered and avoided, remedied, or mitigated. Part of the uncertainty is that even from the point of view of pragmatically seeking to future-proof the NSZ transport network in Sticky Forest's favour, there is at this time no clear basis to predict what it is exactly that should be future proofed or to what extent.

10.24 The Panel is not able to impose any planning restrictions on the Sticky Forest land itself as that falls outside of PC54. It may be that whatever land use enablements come to be confirmed on Sticky Forest include sufficiently robust transport-related consent requirements that would allow any relevant traffic generation effect(s) within the NSZ to be considered. This is not certain and I cannot recommend that this be assumed or relied on. Similarly, the Council does have available to it various Local Government powers to implement direct changes at its cost to its vested public road network in the event that unacceptable adverse effects from future Sticky Forest traffic eventuates. But this Panel is empowered only in terms of the RMA and is not able to commit or compel the Council in non-RMA terms, nor can it soundly assume or rely on such hypothetical actions achieving satisfactory or affordable resource management solutions.

10.25 Ultimately much of the road network that a Sticky Forest connection would link to already exists and was never planned or provided on the basis of accommodating what could be a substantial additional volume of traffic arriving from Sticky Forest.

10.26 In terms of the changes to the PC54 provisions proposed by Te Arawhiti – Office for Māori Crown Relations and Te Rūnanga o Ngāi Tahu, I am generally in support of the further submission of NIL that these are not necessary or otherwise do not materially add to the overall body of the District Plan beyond what has already been proposed. In particular:

- a. I do not agree that a Prohibited Activity status for the new Sticky Forest link is necessary. To date, required roads shown on the current Structure Plan appear to have been provided, in accordance with the Structure Plan, without apparent problem. In light of what I see as a track record of the current Plan working as intended, I am led to support retention of that. In my opinion any consent application to not provide for the Sticky Forest connection as shown on the PC54 Structure Plan would likely face at least limited notification to the owner(s) of Sticky Forest⁴⁷ as well as a likely refusal of consent in light of NIL's proposed policy 12.33.2(3.1) and its direction to "*ensure that roading is integrated... with Sticky Forest (to the west).*"
- b. I do not consider the new policy (and possibly additional provisions) sought by Te Arawhiti – Office for Māori Crown Relations, seeking to avoid (or to otherwise limit) subdivision of AAB6 until a Sticky Forest road has been constructed, is either workable or appropriate. In the first instance, the road link cannot be constructed until an appropriate subdivision consent has been granted in any event. Secondly, and in terms of practicality, Sticky Forest currently has a rural zone and I can see no resource management justification to possibly delay the use and development of urban zoned land within the NSZ until a road link to a rural-zoned site had been constructed. Lastly, until it is known what might come to occur on Sticky Forest, which might not be settled by the time of an initial subdivision within AAB6, it is not clear to what standard and geometric design the specific road link in question should achieve. Overall, in my opinion the relief sought enjoys no support from the balance of the NSZ policy framework.
- c. I am comfortable with the wording proposed by NIL for rule 15.2.3.4(xx) and prefer it to the amended wording proposed by Te Arawhiti – Office for Māori Crown Relations. It is common for applicants to propose and volunteer conditions of consent as part of making an application for consent, and that form an inherent part of the application being considered. This is what NIL's proposed rule would require. Similarly, I cannot imagine a scenario where the Council would reasonably or competently grant such an application by *deleting* Sticky Forest road-link conditions of consent that had been proposed by an applicant as an inherent part of its application (although it could amend them).

⁴⁷ Rule 12.34.3, not proposed to be changed by PC54, already provides for the non notification or limited notification of restricted discretionary activities: "...*except that where the owners of land adjoining an area subject to a consent application with an Outline Development Plan may be affected by a proposed roading connection (or lack thereof) then notice may be served on those persons considered to be potentially adversely affected if those persons have not given their written approval*" (my emphasis added).

- d. In summary I do not agree that requiring the Sticky Forest road to be a collector road is an appropriate outcome; the evidence I have available from Mr. Carr and Mr. Smith at this time does not support a collector-road level of traffic entering the NSZ from Sticky Forest (noting Mr. Carr's best-guess of at most 325 allotments-worth of capacity would only be available if WFH Properties Ltd and other NSZ developers do not seek to add any additional density to that shown on existing consents). I am concerned that by requiring a "collector" road within the Plan provisions, there may be a misconception that a collector road level of traffic from Sticky Forest could therefore be accommodated within the NSZ. I do agree that there is merit in future proofing the road network as much as is possible and to that end I recommend that the 'required roads' shown on the Structure Plan should have a minimum width of 20m (in terms of the road reserve, not the formed pavement width). This would allow for transport solutions up to a collector road level to be provided, if that can be demonstrated to be manageable. But in the event that a separate PDP appeal for Sticky Forest results in a rural or rural-type zone remaining on that land, a collector road serving at most 127 dwellings within AAB6 seems a manifestly excessive outcome.
- e. Lastly, I do not agree that the ODP needs to specify that roads are infrastructure corridors although in fairness this is a stated purpose of PC54 set out by NIL. That roads accommodate infrastructure services is a common and typical characteristic of roads that has occurred across the NSZ to date without the need of such text within the Plan provisions.

10.27 In terms of the potential traffic and transportation effects of PC54, Mr. Smith has comprehensively assessed the existing environment and the formed characteristics of the road network. He has concluded that, with calming, the effects of additional dwellings within the new AAB6 could be accommodated. At my request, he has also undertaken a number of hypothetical tests to identify, as an informal 'stress test', what scales of Sticky Forest traffic generation might be appropriate to plan for, in the event that the Panel sought to future proof the NSZ transport network as best as possible. Mr. Smith has identified that there is currently very limited capability for Sticky Forest traffic within the NSZ (approximately only 75 'surplus' allotments on Stonehenge Road due to its geometry and configuration), although this is uncertain because road links to the Allenby Farm land could allow additional traffic to enter subject to the constraints Mr. Smith has identified along those routes. Mr. Smith, like Mr. Carr, has also not sought to estimate what magnitude of in-NSZ intensification or residential flats might occur; this does mean that conclusions relating to what capacity might exist for Sticky Forest are likely to if anything be overstatements. Mr Smith has also identified the need for

additional methods within the Plan to manage potential future traffic arising from Sticky Forest within the NSZ.

- 10.28 One characteristic that also comes clear from Mr. Smith's analysis is that in reality once vehicles are on a connected road network, travellers are likely to seek to use the most direct and simple route available, not necessarily the one that is coloured on a plan to denote the most theoretical capacity. In my opinion there is a high probability that travellers will seek to use local roads across the NSZ that Mr. Smith has identified as having no available capacity for further traffic. This does not mean that no additional traffic could be accommodated, but that various upgrades and network improvements would be required in many cases – some of which could be triggered by any additional traffic above the existing loads. This reflects that the NSZ road network has been designed on the basis of the NSZ, prior to PC54, being something of a 'closed system' that only needed to cater for its own development. It also means that it is just not possible to predict with any certainty how to best configure or coordinate upgrades across the NSZ in the absence of a specific development proposal and traffic yield from Sticky Forest.
- 10.29 In my opinion, PC54 as proposed provides an insufficient recognition and provision for the management of traffic effects that could stem from and be reasonably attributable to future development on Sticky Forest using the new road link PC54 proposes. This raises two matters. The first is what level of additional traffic could be accommodated, and the second relates to how the party creating such effects could be tied to the funding or delivery of any road or intersection upgrades necessary to safely accommodate that additional traffic (by way of avoiding, remedying or mitigating the adverse effects they were giving rise to). These matters have led me to prefer the addition of consent trigger rules within PC54 requiring traffic generated by activities within Sticky Forest seeking to use the NSZ road network to obtain a land use consent specifically in terms of potential transport effects within the NSZ. This would allow an appropriate determination to be made, including the need and financial attribution of any necessary mitigation, specific to the form and characteristics of whatever traffic was proposed within the NSZ from Sticky Forest – which could be via multiple consents over time as that land developed. The new rule would in my opinion remain within the scope of PC54 (directly addressing the potential effects of the new road link NIL has proposed). I have identified this below. In my opinion this would allow for the concerns identified by Mr. Smith, submitters, and to an extent also Mr. Carr, to be addressed in a way that would ensure no excessive traffic loading could result within the NSZ (i.e., resource consents could be refused where potential traffic generation would exceed what the NSZ could accommodate). This method would also allow for on-going development within the NSZ in the interim between today and whenever such an application for consent might be made.

- 10.30 I recommend the addition of a restricted discretionary activity resource consent added to Rule 12.34.2.3 as a new clause (v), being any traffic generated from activities within Sticky Forest seeking to enter the NSZ and use the NSZ road network. This would not amount to a consent requirement on activities within Sticky Forest generally, and would not extend beyond the boundaries of the NSZ; it would be limited to considering the effects of that traffic on and within the NSZ, and its mitigation, only. Restrictions of discretion are also proposed. I have detailed this later in my recommendations. I consider that this new consent requirement will be both effective and efficient. It will allow Sticky Forest's owners to demonstrate how any future development can be accommodated within the NSZ and where appropriate provide for suitable upgrades to NSZ roads and/or intersections.
- 10.31 The only matter my recommended method could not address would be any further permitted activity intensification on existing allotments in the NSZ itself, such as residential flats. Such activities could cumulatively add traffic volumes that would ordinarily be sufficient to require network upgrades, or in the alternative justify refusal of such development. This is an existing issue within the NSZ however and I am not convinced that PC54 presents an opportunity to generally address that. But it could reduce the 'share' of surplus capacity that might be taken up in the future by development on Sticky Forest.
- 10.32 I have been unable to identify any non-RMA methods that could be relied on in preference to in-Plan methods such as I have identified. I have briefly considered whether the Council could construct some form of special rating or development contribution instruments that might apply in the future to Sticky Forest to recoup the cost of the Council itself undertaking necessary infrastructure upgrades within the NSZ to accommodate future Sticky Forest development. My reasoning for this is that the matter will be highly sensitive to what might eventually be applied for and in what manner, leaving the Council unable to proactively identify exactly what upgrades to what infrastructure might be needed at what cost, in time to then construct and implement the necessary cost-recovery instruments. In any event and as noted elsewhere in this document, the Panel has no means to compel the Council to enter into any particular method along these lines even if one seemed attractive.
- 10.33 However, even with my additional methods, there will still be a 'ceiling' beyond which the NSZ cannot accommodate further traffic from Sticky Forest without some additional or different network solutions becoming available. This real-world 'ceiling' may, I suspect, prove to support less development on the Sticky Forest site than may come to be enabled or be otherwise sought by its owner(s). I have considered what else the Panel might consider if it were minded to help enable the optimum possible long-term solution for Sticky Forest access within the NSZ, while also remaining within the scope

of PC54. In my opinion this relates directly to the submissions seeking a collector road outcome sought by Te Arawhiti – Office for Māori Crown Relations, and Te Rūnanga o Ngāi Tahu. It might also help ‘unlock’ whatever capacity exists within the NSZ for additional residential flats or similar intensification (including of note the WFH Properties Ltd land at Allenby Farm, not subject to the NIL restrictive covenants as I understand it). It also relates to the NIL proposal to require additional road links on the Structure Plan connecting from Stonehenge Road south to the Allenby Farm land (plainly creating a likelihood of future Sticky Forest traffic entering and traveling through the Allenby Farm site), and the obligations that fall on the Council in terms of s.8 of the RMA and the specific context of Sticky Forest as part of a Treaty redress solution.

10.34 A key issue appears to be the availability of suitably formed continuous and direct collector roads through the NSZ, which was otherwise never designed with development of land of the scale of Sticky Forest also in mind. I consider that it would be within the scope of PC54 (to the extent that it relates directly to the transport effects and distribution of traffic within the NSZ that could result from a connection to Sticky Forest as proposed by NIL) for the Panel to extend the western-most new required road proposed by NIL southwards through the WFL Properties Ltd site to a mid-block (approximately 40m) north of the NSZ’s southern boundary. If specified as a 20m minimum-width road reserve, this could provide an opportunity for a far more efficient and direct traffic solution for Sticky Forest to Aubrey Road (although an additional road link outside of the NSZ would still need to be achieved)⁴⁸. If the Panel is attracted to such an approach, I consider that it should not directly connect such a road requirement to Peak View Ridge. That might be one option but there are others and for my part I would regard a linkage directly to the Aubrey Road / Anderson Heights intersection as the optimal theoretically possible (Mr. Smith expresses the same opinion). I recommend setting such a link back a mid-block length so as to allow such variability in its Aubrey Road connection, if one occurs, or alternatively for a road to bend eastwards similar to what is currently shown on the existing Allenby Farm Outline Development Plan if a connection to Aubrey Road proves impossible.

10.35 I recognise that WFH Properties Ltd already has an Outline Development Plan that might allow it to not provide such a road link if it did not wish to. This is an important safeguard noting that WFH Properties Ltd withdrew a submission it made to PC54 and might not be supportive of a change such as I have identified (and so would not be adversely affected by the potential change in the way that might normally be the case). But conversely, it might equally see the benefit in a better-performing north-south

⁴⁸ For completeness, this suggestion is materially different to and was arrived at independently of what was requested within the now-withdrawn WFH Properties Ltd submission. That submission did not seek to add a required road on the Allenby Road site; it sought instead to add one entirely outside of the NSZ along Peak View Ridge.

linkage and it might seek to work with the Sticky Forest owner(s) and other stakeholders to secure a link beyond the NSZ through to Aubrey Road. A separate subdivision consent would be required under the terms of the PDP to establish a link to Aubrey Road beyond the current boundary of the NSZ.

- 10.36 To conclude on this matter, extending NIL's proposed westernmost required road southwards through the WFH Properties Ltd site (but retaining it within the NSZ at all times) is, in my opinion, within the scope of PC54. It offers a potential for the Sticky Forest and NSZ owners to provide something of a 'circuit breaker' that might better future-proof Sticky Forest than I consider will in reality result from PC54 as currently proposed. It might also provide a degree of intensification-resilience within the NSZ itself. Although there is an existing Outline Development Plan consent that could allow for such a road opportunity to be foreclosed, and in any event work would still be required to secure a road link outside of the NSZ to Aubrey Road, I see inclusion of this additional opportunity as offering only potential benefits and on that basis PC54 and the long-term interests of the eventual Sticky Forest owner(s) under s.8 of the RMA would be better-served by including it than not.
- 10.37 Following from that, it does remain something of an oddity that the required roads shown on the Structure Plan are limited to NIL-controlled land and do not extend onto the Allenby Farm land at all; part of the reason for showing such key roads on a structure plan is to require and ensure cross-boundary integration occurs between landowners. Ideally the three required roads shown on the PC54 Structure Plan adjoining the Allenby Farm site (noting the pre-existing Northlake Drive connection at the Allenby Farm site's eastern boundary) would connect up on the Structure Plan (and as the WFH Properties Ltd Outline Development Plan shows). Because WFH Properties Ltd is not a party to PC54 and cannot speak to such a change (and in part because an Outline Development Plan resource consent has been granted already), I have pulled back from extending my recommendation this far - although I do consider that the future potential for Sticky Forest traffic being added to the NSZ does make the case for showing a more complete "required road" skeleton within the NSZ and on the WFH Properties Ltd site stronger. In case the Panel wishes to explore that further, it would also in my opinion be a change that directly arises from NIL's proposal to require additional road links that could connect to Sticky Forest via Stonehenge Road and that adjoin the Allenby Farm site's northern boundary, and which would remain within the scope of PC54.
- 10.38 Ultimately there is a 'chicken and egg' quality to the issue of PC54, the NSZ, and Sticky Forest. It would be more certain to delay any planning for road access to Sticky Forest until the PDP appeal was resolved and a better sense of future (likely) traffic seeking to use the NSZ was available. But there is also a diminishing period where the not-yet completed road network within the NSZ will become finalised and this could foreclose

access to Sticky Forest entirely (or at least substantially truncate what might be currently possible). In my opinion and after considering of all of the ODP, PDP, Regional Plans and RPS', NPS-UD and Part 2 of the Act (notably s.8), the optimum planning outcome is to use the opportunity presented by PC54 to future-proof as much access opportunity as possible for Sticky Forest despite the uncertainties that exist surrounding that. This also directly relates to s.32(2)(c) of the RMA and the risk of acting or not acting in the face of uncertainty or insufficient information. But it does mean that the only practical solution that I can see is to impose a 'blanket' resource consent trigger for any traffic generated by activities on Sticky Forest traffic seeking to enter and use the NSZ.

10.39 On the basis of all of the above, I recommend that PC54 be modified as follows:

- a. Required roads shown on the PC54 Structure Plan should have a 20m minimum road reserve width. This has been directly marked up on the Structure Plan in Appendix 3.
- b. The western-most new required road shown on NIL's Structure Plan connecting to the Allenby Farm land should be extended southwards to approximately 30m from the NSZ's southern boundary. This has been directly marked up on the Structure Plan in Appendix 3. The Panel could also additionally extend the other required roads shown on the WFH Properties Ltd land (Allenby Farm) so as to connect them all together, although this is not formally recommended.
- c. A new restricted discretionary activity rule should be provided at 12.34.2.3(v) of the ODP as follows:

“v. 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.

The exercise of Council's discretion shall be limited to:

- (a) Total traffic volumes and means to safely accommodate that.
 - (b) Provision of road or network upgrades to accommodate increased vehicular, cycle and pedestrian traffic.
 - (c) Streetscape amenity and the amenity of residential allotments adjoining a road or roads proposed to accommodate an increase in traffic volumes.
- d. An associated amendment to the non-notification rule at 12.34.3(i) of the ODP so that it reads as follows (new text in green highlight):

*“All applications for Restricted Discretionary Activities **excluding 12.34.2.3(v)**, except that where the owners of land adjoining an area subject to a consent application...”*

- 10.40 I recommend that the submission point of Theo Bunker and Lorraine Rouse be **rejected** and the submission points of Te Arawhiti – Office for Māori Crown Relations, Te Rūnanga o Ngāi Tahu, Berit Landgraf, and Graeme McGlenn be **accepted in part** to the extent that with modifications, an acceptable framework to manage traffic within the NSZ from Sticky Forest is available.
- 10.41 I recommend the further submissions of NIL be **accepted in part** to the extent that I am not in agreement with the full extent of modifications sought by the submitters.

Avoid any future road connection between Sticky Forest and Kirimoko

- 10.42 Kirimoko No. 3 Limited Partnership (28) seek that no future access from Sticky Forest be provided for to Kirimoko.
- 10.43 This has been opposed by the further submissions of Te Arawhiti – Office for Māori Crown Relations and NIL.
- 10.44 In my opinion PC54 is limited to land within the NSZ itself and cannot extend onto other land including Sticky Forest as sought by the submitter. All matters relating to what might or might not be enabled on Sticky Forest, and subject to what conditions or requirements, form part of a separate PDP appeal process.
- 10.45 In my opinion the submission lacks scope and otherwise seeks a decision to preclude any form of future access on land that has not been the subject of any assessments of merit to support that outcome in any event.
- 10.46 I recommend that the submission point be **rejected** and the further submission point be **accepted** for the reasons given above.

Adverse future forestry / logging effects within the NSZ

- 10.47 Kostya Marchenko (1) seeks that no forestry-related traffic be permitted within the NSZ on the basis that this would be hazardous and inconvenient to the residents, pedestrians and cyclists using the NSZ.
- 10.48 NIL, through the CI.23 RMA response provided by Ms. Shepherd dated 1 June 2022, also expressed concerns with potential forestry traffic, although she explained NIL’s

concerns more in relation to larger trucks than in terms of seeking an outright prohibition of any forestry-related traffic at all (which I surmise could allow for the private vehicles used by forestry employees possibly using the NSZ). In any event, NIL has not identified any methods or limitations or other preferences for how the matter might be managed.

10.49 Mr. Smith has considered this in his assessment and concluded that forestry traffic could have significant adverse effects within the NSZ. Having considered the objectives and policies of Chapters 12 and 15 of the ODP, and in particular my reflection on the safe, high amenity living environments anticipated by the Plan in the context of what are for the most part well-established residential streets and intersections, I share the submitter's, NIL's and Mr. Smith's concerns. In my opinion what could be a significant forestry activity to clear Sticky Forest (both in terms of scale and duration) could result in significant adverse safety, amenity, and road asset-damage effects.

10.50 Mr. Smith has identified a desire for weight restrictions to be imposed on Stonehenge Road so as to prevent its use (and as a result any other NSZ roads) by High Productivity Motor Vehicles (HPMV) in particular, of forestry activities in general. I agree with Mr. Smith in relation to HPMV's as it relates to the specific new road link enabled to connect Stonehenge Road to Sticky Forest and have recommended an amendment to NIL's proposed Non Complying Activity trigger at 15.2.3.4(xx) of the ODP, as well as the existing restriction of discretion at 12.34.2.3(i)(b) of the ODP. These will ensure that the Sticky Forest road-link will include a proposed weight restriction, and that the Council will possess a suitable restriction of discretion to consider and determine that at the time of resource consent.

10.51 I recognise Mr. Smith's preference that no forestry activities at all be permitted within the NSZ. But it occurs to me that there may be potential for low-volumes of forestry-related traffic other than HPMVs to safely and appropriately use the NSZ such as worker's vehicles or small trucks possibly subject to good traffic management. In light of my previously recommended additional restricted discretionary activity rule at 12.34.2.3(v) of the ODP, I have identified an additional restriction of discretion that could relate specifically to any forestry or construction-related traffic. This is set out below.

10.52 I recommend the following modifications to PC54:

- a. Amend proposed rule 15.2.3.4(xx) to read (s.42A amendments in green highlight):

(xx) In the Northlake Special Zone, any subdivision of Activity Area B6 that does not require, by condition of consent, the legal establishment of legal vehicle access that includes a weight restriction so as to limit use by High Productivity Motor Vehicles (HPMV) (as defined in Land

Transport Rule 41001/2016 to Sticky Forest (Section 2 of 5 Block XIV Lower Wanaka Survey District).

- b. Amend existing rule 12.34.2.3(i)(b) to read (s.42A amendments in green highlight):

(b) Roding pattern and vehicle access arrangements, including integration with existing development and, 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;

- c. Add to s.42A proposed rule 12.34.2.3(v) of the ODP the following as a further restriction of discretion, (d):

- (d) In the case of forestry and/or construction-related traffic:
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.

10.53 I recommend that the submission point be **accepted in part** for the reasons above.

Adverse traffic effects of the additional dwellings within the NSZ

10.54 Janet Young (7), Oliver Young (8), Berit Landgraf (9), Graeme McGlenn (16), Queenstown Lakes District Council (31) have identified concerns with the potential adverse transport effects that additional traffic within the NSZ arising from the up to 63 additional allotments that the new AAB6 could enable.

10.55 The potential effects of the new AAB6 were considered on behalf of NIL by Mr. Carr. Mr. Carr was satisfied that the additional traffic likely to be generated within the NSZ could be managed. Although he did in places discuss potential changes to the existing

road network, such as traffic calming, he did not make any firm recommendations in this respect.

- 10.56 Mr. Smith, in his review, has come to the same conclusion as Mr. Carr, and is comfortable with the additional dwellings subject to additional traffic calming and management being required. I accept the advice of Mr. Carr and Mr. Smith in that general sense.
- 10.57 The underlying consent requirements within Chapters 12 and 15 already allow for the localised traffic effects of development proposed within the NSZ to be fully assessed. If required, identified improvements or upgrades can be required as conditions of consent on any Outline Development Plan or subdivision consent. In my opinion there is no need for further modifications to PC54 of Chapters 12 or 15 to provide for the calming or other works that Mr. Carr and Mr. Smith envisage.
- 10.58 On the basis of the above, I recommend that the submission points be **accepted in part** to the extent that the additional traffic generated from new AAB6 can be accommodated subject to localised traffic calming and improvements, which can be required by way of conditions of consent on approved resource consents.

Overall conclusions

- 10.59 I have considered all of the above in terms of Part 2 of the RMA, the NPS-UD, the RPS', the Regional Plans, and the PDP and ODP. In my opinion the transport-related effects and policy matters raised by PC54 can be addressed in a way that will not give rise to any problematic or inappropriate effects, or raise any conflict with the outcomes sought by the planning documents.
- 10.60 Provision of access to Sticky Forest will also in my opinion be consistent with s.8 of the RMA and the enablement of the well-being of that land's eventual owners. In this respect and noting my recommendations that would still result in the need for future resource consents to be obtained in relation to any traffic from Sticky Forest activities seeking to use the NSZ road network, I consider that PC54 will contribute as much as is possible to the Crown's obligations to its Treaty partners.
- 10.61 My reasons for preferring the addition of traffic generation-based consent triggers to the ODP include that the method can simultaneously provide for both potential forestry and future development scenarios on Sticky Forest in a flexible manner (i.e., Sticky Forest might be developed several steps or stages over time, each one necessitating its own NSZ network mitigation). But I recognise that adding a rule within the NSZ that is aimed at traffic generated (proposed to use the NSZ) by activities outside of the NSZ is atypical and the Panel may not come to view PC54's scope in the same way I have. I have

considered whether an alternative might exist and although I do not see it as efficient or effective as my preferred approach, it would be possible to:

- a. Change the construction of NIL's proposed rule 15.2.3.4(xx) so that the Non Complying activity became any subdivision that foreclosed the opportunity to provide the road link to Sticky Forest shown on the Northlake Structure Plan, but did not require the subdivision or creation of the road link itself.

This would have the effect of safeguarding the route and land required for the Sticky Forest road link, but would not have the effect of providing, forming or vesting the road in the first instance.

- b. Add an additional restricted discretionary subdivision rule to Chapter 15, which could be publicly or limited notified to occupants within the NSZ, applying to the subdivision and creation of the road link to Sticky Forest shown on the Northlake Structure Plan. Restrictions of discretion as I have otherwise identified for my recommended method would apply along with an information requirement accompanying the rule requiring any such application to include details of the range of activities within Sticky Forest and resultant traffic that the road link was being proposed to provide access for.

This would allow, at the time a road link was proposed (which would in this scenario be the owner(s) of Sticky Forest rather than NIL), an applicant to nominate a traffic generation scenario that the road link was proposed to serve, and this would then be a defensible basis to identify what other NSZ improvements and upgrades (if any) would be required.

10.62 The principal shortcoming of this potential alternative method, and why I have not advanced it any further within this report, is that it would only be triggered once (the proposal to form the road link), and would be subject only to whatever was proposed within Sticky Forest or could be justifiable assumed to be otherwise likely at that point in time. That might be well short of what traffic might come to 'ultimately' seek to enter the NSZ from Sticky Forest.

11 INFRASTRUCTURE

Storm water

11.1 PC54 does not seek to change the existing approach to managing storm water. This is administered principally through the consent requirements that apply to Outline Development Plans and subdivision consents.

11.2 NIL has provided an infrastructure assessment that includes a specific storm water analysis prepared by Fluent Ltd, dated 3 February 2022. Fluent Ltd has identified a high-level concept that in its opinion is in line with the Council's Code of Practice and demonstrates that a feasible technical storm water solution is available, with the details of that subject to future consent processes. It includes new piped services, secondary overland flow paths, and treatment via a combination of road-side catch pits and a detention pond, and consideration of erosion and sediment controls. Fluent Ltd's approach has included consideration of the existing storm water infrastructure that has been provided within the NSZ relative to identified storm water catchments A and B (Figures 2.1 and 2.2 of the Fluent report). Fluent Ltd concludes (page 22 of its report) that:

"The stormwater management concept for the Proposed Plan Change Area of NSZ development presents a solution to mitigate the effects of the development on the surrounding environment.

Additional design work will be completed as part of the detailed design, but the overall management scheme represents a feasible solution to stormwater management for the site."

11.3 In my opinion the overall approach taken by NIL in this regard is in line with what I would expect of new urban re-zoning proposals.

11.4 Ms. Kate Purton has reviewed the NIL documentation and does in large part agree with it. However, she has identified that there remains potential for adverse downstream storm water effects in need of management. In Ms. Purton's opinion, because of the identified occurrence of erosion and other discharge-related effects at Hikuwai Reserve and into the Clutha River/Mata-Aū, the status quo approach to managing storm water will not be sufficient. To that end she has identified a need for additional standards within the NSZ.

11.5 Particularly relevant provisions of the PDP are 3.2.2.1, 3.2.4.1, 3.2.4.4, 3.2.7.1, 3.3.20, 4.2.2A, 4.2.2.1, and 4.2.2.5 (in the scheme of the NSZ as an integrated whole). In terms of the ODP, objective 12.33.2(6) and policies 12.33.2(6.4) are particularly relevant. I also note that Ms. Purton has made reference to assessment matters within Chapters 12 and 15, which I am in agreement with noting that in the case of storm water solutions, it is intended that the substance of these be determined at the resource consent stage where assessment matters have a particular role to play.

- 11.6 Chris Arbuckle (19), Don McKinlay (25), Joanna Ashe Marasti (26), Pierre Marasti (27), Janet Musker (29), and Queenstown Lakes District Council (31) identified concerns that potential storm water effects need to be well-managed, with reference made to existing erosion and storm water discharge problems.
- 11.7 NIL's further submission opposes the submissions of Chris Arbuckle, Don McKinlay and Queenstown Lakes District Council on the basis that storm water effects have been managed appropriately.
- 11.8 I am aware that the Otago Regional Council has issued an Abatement Notice to the Queenstown Lakes District Council in relation to unauthorised storm water discharges into Hikuwai Reserve and Clutha River/Mata-Aū, referenced EN.RMA.21.0081 and dated 1 October 2021. Ms. Purton has also identified that she has personally visited and inspected sites where erosion is occurring.
- 11.9 Generally speaking and in the normal course of events I would be inclined to agree with NIL's position on the matter. But in the case of direct evidence that 'something is not working' relative to erosion at Clutha River/Mata-Aū, and I have no evidence to indicate that NIL has done anything other than what the existing ODP provisions require of it, I consider that it is appropriate to consider whether the status quo should remain unchanged relative to PC54 in light of that information. This is not in my opinion an indication of any fault or responsibility directly on NIL or its development (which I have no information on, opinion of, or role in determining); the issue to my mind is a more general one of the potential that development within AAB6 over and above that likely from the existing NSZ provisions could exacerbate an existing problem, whatever its root cause.
- 11.10 There is a clear policy expectation within the RPS, Regional Plan – Water, ODP and PDP that a proactive, low-impact approach be taken to managing urban storm water and that the health and well-being of natural waterbodies such as Clutha River/Mata-Aū are strategic priorities. Key concerns identified by the ORC in its abatement notice include direct evidence of "...erosion, land instability and property damage to land within the Hikuwai Reserve", and a "...conspicuous change in colour and visual clarity of water to the Clutha River/Mata-Aū".
- 11.11 Although there is a case to be made that the matters raised by Ms. Purton could be said to apply to the Council's current Code of Practice more generally, I am satisfied that there is a sufficient direct spatial link between the storm water catchments that PC54 would relate to and documented downstream erosion associated with those. I am on that basis persuaded to agree with the submissions and Ms. Purton that additional safeguards are appropriate and the methods she has identified are in my opinion

reasonable. Because there is already an underlying resource consent requirement for any development within AAB6 and it already provides for active consideration of storm water effects, I do not consider her additional methods form an onerous or significant planning burden on NIL and there is a quite well-established duty under the RMA to avoid, remedy or mitigate actual or potential adverse effects.

11.12 I recommend that restriction of discretion (g) in 12.34.2.3(i) of the ODP be amended as follows (new text in green highlight):

- (g) Proposed methods of low impact stormwater disposal **including in the case of Activity Area B6 methods for:**
- 1. limiting post-development peak flow to 80% of pre-development peak flow for the 2-year, 5-year, 10-year, 20-year and 100-year events, and**
 - 2. retention or volume reduction of at least 5 mm runoff depth in any storm, and**
 - 3. extended detention storage draining down over 24 hours, for the difference between the pre- and post-development runoff volumes from the 95th percentile 24-hour rainfall event minus the 5 mm retention identified in (2) above;**

11.13 I recommend that the submission points be **accepted in part** to the extent that with additional modifications PC54 will not exacerbate adverse storm water related effects and will otherwise avoid, remedy or mitigate potential adverse storm water effects.

11.14 I recommend that the further submission of NIL be **rejected**.

Water supply

11.15 PC54 does not seek to change the existing approach to managing storm water. This is administered principally through the consent requirements that apply to Outline Development Plan and subdivision consents.

11.16 NIL has provided a water supply assessment prepared by Fluent Ltd (dated 21 December 2021 but with a note identifying Revision 2 dated 3 February 2022 in the same report). Fluent Ltd has identified a high-level concept that in its opinion is in line with the Council's Code of Practice and demonstrates that a feasible water supply solution is available, including in terms of sufficient fire-fighting capability. Fluent Ltd concludes (page 8 of its report) that:

“As can be seen from the report, the proposed plan change area of the development will be able to receive sufficient potable water flows and pressures meeting QLDC’s Level of Service. In the event of a fire, the

proposed plan change area will be provided with appropriate pressures to meet the requirements under SNZ PAS 4509_2008 Firefighting Supply standards. Albeit that the sizes of all the water pipelines have been determined during the hydraulic network modelling, the extent, and sizes of the proposed reticulation in the proposed plan change area will be shown in the Engineering Approval application.”

- 11.17 In my opinion the overall approach taken by NIL in this regard is in line with what I would expect of new urban re-zoning proposals.
- 11.18 Mr. Richard Powell has reviewed the Fluent Ltd report and provided a memo dated 9 June 2023. Mr. Powell agrees with the conclusions reached by Fluent Ltd although has identified that the water network is “already constrained”. Mr. Powell has identified that upgrades may be required beyond the normal ambit of the Council's Code of Practice. Specifically, he has identified necessary easements across NIL and other parties' land, and included in his memo an indicative location of these (his Figure 1).
- 11.19 In terms of the ODP, objective 12.33.2(6) and policies 12.33.2(6.4) are particularly relevant.
- 11.20 Queenstown Lakes District Council (31) has made a neutral submission seeking to confirm that satisfactory water supply infrastructure solutions are available.
- 11.21 NIL's further submission opposes the submission, including in terms of additional controls the Council has proposed.
- 11.22 The reservoir that would serve AAB6 exists and can be seen north of AAB6. The technical information provided by NIL and the review undertaken on behalf of the Council agree that sufficient water supply could be available and that PC54 can be appropriately serviced.
- 11.23 The question raised by Mr. Powell regarding additional upgrades and potential easements is one that I have considered at some length. I am not convinced that at the time of a Plan Change easements can be conditioned or required. The trigger would be at the time of resource consent (easements would typically be given effect to as part of a subdivision consent). In this instance there are already wide-ranging restrictions of discretion available to the Council relating to the sufficiency of infrastructure (12.34.2.3(i)(f) is very open-ended, and is supported by assessment matter 12.34.5.2iii(e)(i)). In my opinion the outcomes identified by Mr. Powell could be the subject of valid consent conditions as required – or failing that, consents could be refused. To the extent that the Council's current Code of Practice might be satisfied by

an outcome less than Mr. Powell considers might be required, the ch.12 ODP matters identified above do not directly reference, and are not in my opinion limited to, that Code of Practice in any event.

- 11.24 I consider PC54 to be appropriate and that no further analysis is required. I agree with NIL's position that in terms of water supply PC54 will not give rise to any adverse effects or health and safety risks of any concern.
- 11.25 I recommend no modifications to PC54's Plan text arising from this matter.
- 11.26 I recommend the Council's submission point be **accepted in part** for the reasons above, and the NIL further submission also **accepted in part** for the same reasons (noting that the question of additional Plan standards relating to infrastructure generally will be addressed separately).

Non Complying Activity status

- 11.27 The Council has also sought addition of a Non Complying Activity rule (added to NIL's proposed 15.2.3.4(xx) that would apply in the event that any application for subdivision within AAB6 that did not provide adequate transport infrastructure, a storm water solution for the entirety of the storm water catchments that AAB6 relates to, or a satisfactory water supply solution.
- 11.28 NIL has opposed this request.
- 11.29 I agree with NIL. The overall policy framework for the NSZ makes it clear that, even as restricted discretionary activities, suitable infrastructure solutions are required and their inadequate provision could result in a refusal of consent (or the imposition of conditions). I disagree with the Council that an additional rule is required to give effect to NSZ objective 12.33.2(6). Notwithstanding that, I am also not confident that the Council's proposed rule is workable to the extent that ascertaining compliance could be a very complicated (and contested) exercise requiring a Council review of many technical reports within a lodged (typically restricted discretionary) consent application. In this respect, I am unconvinced that the Council's proposed rule will be efficient or effective.
- 11.30 However, my consideration of this issue has identified an omission from NIL's request that requires a consequential ODP modification. The Council's submission point has related to the making of subdivision applications, and my reasoning for disagreeing with this is in large part due to the nature and function of the existing Chapter 12, and the requirement for an Outline Development Plan land use consent to be obtained including details of relevant infrastructure solutions. There is an interrelationship between the two chapters to the extent that subdivision under chapter 15 of the ODP is restricted until

the relevant Outline Development Plan under Chapter 12 has been granted. This is specified at rule 15.2.3.3(x), which states:

“(x) Within the Northlake Special Zone – any subdivision of any of Activity Areas B1 to B5, C1 to C4 and D1 into more than one lot prior to a grant of consent for the relevant Activity Area under Rule 12.34.2.3.i or Rule 12.34.2.3.ii.”

- 11.31 PC54, by creating a new AAB6, would technically be exempt from this requirement, potentially enabling subdivision to occur without an Outline Development Plan in place. This is not in my opinion consistent with the intended function of the NSZ and it would not be appropriate. I recommend a consequential amendment to Rule 15.2.3.3(x) so as to include AAB6 within its ambit, as follows (s.42A text in green highlight showing a strikethrough):

“(x) Within the Northlake Special Zone – any subdivision of any of Activity Areas B1 to ~~B5~~, C1 to C4 and D1 into more than one lot prior to a grant of consent for the relevant Activity Area under Rule 12.34.2.3.i or Rule 12.34.2.3.ii.”

- 11.32 On the basis of the above, I recommend that the Council’s submission point be **accepted in part** to the extent that with the modification above there will be an appropriate planning framework to manage the planning and subdivision of AAB6 relative to the provision of infrastructure. NIL’s further submission point should also be **accepted in part** to the extent that the Council’s proposed Non Complying rule is not necessary.

12 OTHER AND CONSEQUENTIAL MATTERS

There is no need for PC54;

Reject PC54 until more information depicting the entirety of NSZ and Sticky Forest development plans are available;

Reject PC54 and undertake a public plan change to consider Sticky Forest and NSZ comprehensively;

Reject PC54 because it provides no community benefits but will add future ratepayer costs; and

Oppose PC54 with no stated reasons

- 12.1 A number of submitters have opposed PC54 in its entirety for various reasons, including Mathew Jackson (2), Ben Akin-Smith (4), Fiona Abbot (3), Bike Wanaka Inc (24), Kirimoko No. 3 Partnership (28), Janet Musker (29), and Henry Taylor (5).

12.2 In its further submission, NIL has opposed this relief.

12.3 Having considered PC54 in light of NIL's request documents, the submissions and further submissions, the relevant national, regional and district planning documents, and its likely environmental effects, I do not support the requests to refuse PC54 outright. My reasons for this are:

- a. There is no public Plan Change alternative that can be referred to or compelled.
- b. Most of the Kirimoko and NSZ areas have already been developed. Although I do have some sympathy for the logic of planning all of Kirimoko, Sticky Forest, and NSZ as one, the time for that opportunity has long-since passed. I see no benefit in subjecting those developed or subdivided areas to another comprehensive planning process that is unlikely to be able to reconfigure or change existing sunk-infrastructure costs and land ownership patterns that have arisen.
- c. Sticky Forest is at this time subject to a PDP appeal and depending on the resolution of that it may take several years before its owner(s) confirm their preferred plans for the land. In the meantime, the NSZ is operative and there is a risk that the opportunity presented by PC54 to provide at least one means of access to Sticky Forest, noting the limitations that I have identified previously that would apply to it, could be foreclosed or at least significantly degraded.
- d. Providing for access to a land-locked site will provide a range of potential benefits to the community. At the very least, the future owners of the land are members of the community over and above their specific needs as parties to a Treaty settlement and redress process. Even if the land were to remain rural zoned and some form of public recreational use retained, enhanced access to the land would also be a source of community (access) benefit.
- e. There is no evidence that PC54 will subject the Council to any greater costs than would be likely to fall on it as a result of uptake of the existing NSZ provisions. The key risk that I see relates to potential demand for NSZ road upgrades in the long-term arising from an unknown future volume of Sticky Forest traffic using the NSZ network. Proposed PC54 modifications requiring that traffic from relevant Sticky Forest activities obtain land use consent set out in this report will ensure those costs are properly attributed to the party or parties creating the need for any improvements.

- f. Subject to the modifications I have identified and proposed, PC54 will not give rise to any concerning adverse effects, and will be consistent with the applicable planning framework.
- 12.4 Having been involved in the long-term planning for Wānaka for over the past 15 years, it is regrettable that what I would describe as a 'blind spot' in relation to Sticky Forest has persisted. Ideally access could have been perhaps safeguarded when the original Kirimoko redress property was developed. But in any event and as is often the case, the issues facing today often stem from past decisions that with the benefit of hindsight might have been approached differently.
- 12.5 The only imperfection in the overall outcome that I remain dissatisfied with relates to the lack of a collector-road connection in the south-eastern part of the NSZ to Aubrey Road. Through the original PC45 this matter was raised, and an in-part response was to identify the opportunity for Peak View Ridge (or another) link to be established by way of land acquisition and subdivision. This remains a live opportunity today; development within the NSZ has thus far been able to proceed without it but there would be benefits for the NSZ from having such a secondary collector road (including greater ability to accommodate future intensification, and more convenient and direct access to the Wānaka town centre).
- 12.6 My preference would be for a means of securing a road access to Aubrey Road but I do not see that this can be attributed to the additional traffic likely from the new AAB6 alone, and I have no basis to speculate on the future transport needs of Sticky Forest. A planning requirement or rule 'trigger' for such a new Aubrey Road connection beyond the NSZ to be provided by way of resource consent as pre-requisite of Sticky Forest entering the NSZ and using the new PC54 link to that land *could* be theoretically within the scope of PC54 as a consequential matter arising from the enablement of proposing new road access to that 50ha site. But I am reluctant to recommend this because WFH Properties Ltd already has an Outline Development Plan consent and if implemented it would likely preclude any opportunity for a continuous road connection to Aubrey Road in any event, even if notionally the Sticky Forest owner(s) or another party was motivated to provide such an extended link.
- 12.7 Notwithstanding that, I have identified modifications that would provide the best possible signal for an opportunity for the Sticky Forest owner(s) and possibly also NIL and WFH Properties Ltd (and others such as possibly the Peak View Ridge owners) to collaborate and provide an Aubrey Road connection. As a safeguard in the event that this cannot be provided, I have proposed modifications requiring any proposal for future traffic from

Sticky Forest to enter and use the NSZ to be managed by way of resource consent. This would allow for any excessive traffic volumes to be avoided as may be required and dependent on available NSZ capacity at the time.

- 12.8 In light of the above, I remain of the opinion that the most appropriate outcome is to approve PC54 with modifications.
- 12.9 I recommend that the submission points be **rejected**, and NIL's further submission point be **accepted** for the reasons above.

Dust and noise effects from construction of future development

- 12.10 Barbara Beable (12) has submitted that dust and noise effects from future construction could be inappropriately adverse.
- 12.11 Development has been occurring within the NSZ for approximately the past 10 years. In that time, several hundred dwellings have been consented and constructed including bulk earthworks operations and the formation of new land levels and roads. NIL and the other developers have shown that it has been possible for completed dwellings to become occupied while nearby construction continues, although NIL at least does use various restrictive covenants to simplify its ongoing operations.
- 12.12 I am not aware of any fundamental dust or noise issue likely to arise from PC54 and its relatively modest additional yield (from 64 to 127 likely maximum allotments) that would give rise to a type or characteristic of dust or noise effect materially different to what has been experienced in the zone for the past decade, or that could not be managed through the existing consent frameworks.
- 12.13 I do not consider the likely effects to be out of the ordinary, problematic, or in need of any further management.
- 12.14 I recommend that the submission point be **refused**.

Create a fire break along Sticky Forest boundary

- 12.15 Chris Arbuckle (19) and Don McKinlay (25) seek that a fire break be maintained along the western side of the NSZ with Sticky Forest.
- 12.16 NIL has made a further submission opposing this relief on the basis that there is already a fire break 'built in' to Sticky Forest along its own eastern side.
- 12.17 I am in agreement with NIL and my own site visit has confirmed that trees on Sticky Forest are set back from its boundary with the NSZ, by the order of 10m. The trees are

in a mature state and in light of the PDP appeal process, it is also reasonably foreseeable that some form of tree clearance or removal will also become likely. Furthermore, the pattern likely on the basis of the road formation to the NSZ reservoir indicates a single row of allotments between the road and Sticky Forest, making it very likely that the space adjacent to the Sticky Forest boundary will be used for back gardens generally clear of buildings.

- 12.18 I therefore disagree that there is a need to impose fire break provisions although there is support across the PDP and the RPS' for a proactive approach to managing natural hazards. If the Panel so determined that it favoured consideration of this matter at the time of resource consent, it would be a simple matter to add to the restrictions of discretion at Rule 12.34.2.3(i)(k) where NIL has already proposed to add words seeking "integration with Sticky Forest", by adding words directly after that to the effect of "including consideration of any appropriate fire-breaks or other mitigation measures".
- 12.19 I recommend that the submission point be **accepted in part** to the extent that there is already a real-world fire break in place and no further action is required, and the NIL further submission point be **accepted**.

Change reference from Sticky Forest to Hawea/Wānaka – Sticky Forest

- 12.20 Te Rūnanga o Ngāi Tahu (22) seeks a change of reference for Sticky Forest within PC54.
- 12.21 Te Arawhiti – Office for Māori Crown Relations has made a neutral further submission, noting that the future owners of the land may seek a different name for the land.
- 12.22 I am generally neutral on the submission and see no resource management impediment to the Panel accepting the modifications requested were it so minded. I have not formally recommended this action because I agree with Te Arawhiti that the land's future owners might seek a different name for the land. I also note that there is a PDP appeal process ongoing currently that relates to Sticky Forest and it may be that a formal naming preference is determined through that process.
- 12.23 I would agree however that once the preferred naming for Sticky Forest is determined, it would be appropriate to align the balance of the Council's policy and planning documents – including the District Plan – with that.
- 12.24 On the basis that I do not agree there is a need to change PC54, I recommend that no modifications are required, and that the submission point should be **rejected**. The further submission point should be **accepted**.

13 ALL OTHER EFFECTS OR SUBMITTER CONCERNS, OR PC54 MODIFICATIONS

13.1 For completeness I confirm that for all other categories of potential environmental effects, and all other issues, raised by or relevant to the submissions or further submissions, I have considered these and am in the first instance in agreement with the reasons supporting PC54 provided by NIL in its request documents. In the second instance and having undertaken my own assessments, I see no effects fundamentally different to what would have likely arisen on the land subject to PC54 under the existing NSZ provisions. In my opinion PC54 will have acceptable and non-problematic effects including on the basis of the modifications I have identified. I do not consider that any modifications to PC54 other than those I have identified throughout this report are necessary.

14 STATUTORY ASSESSMENT

14.1 On the basis of the above, and noting again the fairly modest overall scale of PC54, I have turned my mind to the statutory tests set out earlier in Section 5 of my report. On the basis of modifications that have been proposed to address potential adverse effects and to ensure an integrated built form outcome results that contributes to a well-functioning urban environment, and is otherwise in keeping with what is sought from the suite of relevant planning documents, I consider that PC54 will present the most appropriate objectives, policies and methods and should be accepted.

14.2 I am particularly supportive of PC54 on the basis of s.8 (Part 2) of the RMA and the ability of PC54 to enable Sticky Forest road access, which I see as a necessary and valid resource management goal to support an ongoing Crown process of Treaty settlement and redress. It is a practical and timely outcome to support Sticky Forest's future owners, albeit one that presents uncertainties and likely future limitations based on the constraints presented by the NSZ road network. In terms of NIL's interests, I am satisfied that the provision of additional dwellings will not give rise to concerning or inappropriate environmental effects, and to my thinking will provide NIL a means of recouping something of the costs it will have incurred seeking to help support the Crown and future owners of Sticky Forest obtain access to that land (and possibly in constructing the future road link). In that respect, approving PC54 will also contribute to the wellbeing of NIL and I am on that basis supportive of the proposal to provide for a road access and adjacent housing development together.

14.3 In reaching my conclusions I have considered the requirements of s.32 of the RMA and NIL's associated reporting. In terms of S.32AA of the RMA, and to the extent that I have identified additional modifications to those proposed by NIL, I have undertaken a further evaluation based on the scale and extent of differences my modifications would make to the notified PC54. In my opinion the changes are not significant and do not require any further analysis than that set out previously in my detailed analysis and reasoning (and the supporting assessments I have referred to).

15 RECOMMENDATIONS

15.1 For the reasons set out above, I consider the request made by NIL to amend Chapter 12 of the ODP by merging parts of existing Activity Areas B2, C1, and E1 in the north-western corner of the Northlake Special Zone into a new Activity Area B6, specify additional required road links on the Northlake Structure Plan, and to make consequential amendments to Chapter 15 of the ODP, can be **accepted with modifications**. A track-change mark-up of NIL's PC54 provisions are included as **Appendix 3**.

15.2 In summary my principal reasons for this conclusion are that with the modifications proposed, and after considering in all cases the reasonably practical alternatives that are available, PC54 will:

- a. accord with and assist the Council in carrying out its statutory functions and achieve the purpose of the RMA;
- b. accord with Part 2 of the RMA especially in terms of s.8 of the RMA and enabling the future owners of Sticky Forest to provide for their social, economic and cultural well-being by way of enabling road access to a currently land-locked site;
- c. give effect to the partially operative Otago Regional Policy Statement 2019, and otherwise be in keeping with the proposed Otago Regional Policy Statement 2021;
- d. give effect to the NPS-UD and NPS-FM;
- e. include rules sufficient to manage the environmental effects of development that could foreseeably result from PC54, including in particular the avoidance, remediation or mitigation of adverse effects and the avoidance of any fundamentally unacceptable adverse effects;

- f. include objectives that are the most appropriate way to achieve the purpose of the Act;
- g. include policies and methods that are the most appropriate way to achieve the objectives, including after having had regard to their efficiency and effectiveness, and taking into account both the benefits and costs of those proposed policies and methods; and the risk of acting or not acting in the case of uncertainties that exist in relation to the future use and potential traffic generation that may result within the NSZ from Sticky Forest.

Ian Munro

29 June 2023