

## **Appendix C**

A copy of the relevant part of the Decision, being Part 2.3 on pages 3 – 6 of Hearing Panel Report 18.4 – Area B Northern Basin

C

## 2. OUTSTANDING NATURAL LANDSCAPE BOUNDARY AND LANDSCAPE FEATURE LINES

### 2.1 ONL Boundary Amendments Requested

11. Two submissions<sup>3</sup> requesting amendments to the ONL boundary at Arthurs Point Basin, near the western end of Littles Road, were the subject of legal submissions or evidence.
12. Additionally, M McGuinness<sup>4</sup> requested the removal of the Landscape Feature line from the property at 66 Dalefield Road. Again, Mr Brown, appearing in support of the McGuinness submission, presented no evidence in support of this specific submission. As the only evidence we received was that of Mr Langman and Ms Gilbert, we accept their reasoning and recommend the submission be rejected.

### 2.2 Submission 570 – Shotover Hamlet Investments Limited

13. This submission related to a 25.6 ha property on the southwest corner of the Littles Road-Arthurs Point Road intersection. The submitter sought that the upper (northern) part of the site be removed from the ONL and classified RCL. The submitter did not appear and no evidence was provided in support of the submission.
14. Ms Vanessa Robb appeared for Mr Robert Stewart<sup>5</sup>, a further submitter in opposition to Submission 570. She told us that the evidence produced by the Council did not support the change to the ONL boundary requested by the submitter. We agree with Ms Robb and recommend there be no change to the ONL boundary between Littles Road and the Shotover River and that Submission 570 be rejected.

### 2.3 Submission 526 - Michaela Meehan

15. This submission related to the location of the ONL boundary at the western end of the Wharehaunui Hills where there is a series of cliffs and rock faces above and east of Littles Road. The ONL boundary as notified followed a line from Littles Road to the south of the crest of the ridge before turning at right angles and running on a northwest-southeast line across the western end of the Northridge subdivision to meet Malaghans Road. The submission sought that the ONL boundary be moved west so that it ran along the top of the rocky cliffs in an almost constant north-south line, meeting Malaghans Road at the same point as the notified line.
16. Mr Patrick Baxter gave landscape evidence for Michaela Meehan. He contended that there was little logic to the notified ONL boundary. His conclusion was that the presence of houses, driveways and tree planting did not reflect the character of an ONL, which is open and natural landscape devoid of structures, with minimal modification and natural plant patterns.<sup>6</sup> The ONL boundary as recommended by Mr Baxter is shown in yellow in Figure 2, below. The notified line is shown in red.

<sup>3</sup> Submissions 526 and 570 (opposed by FS1297)

<sup>4</sup> Submission 2292

<sup>5</sup> FS1297

<sup>6</sup> P. Baxter, EIC at paragraph 21

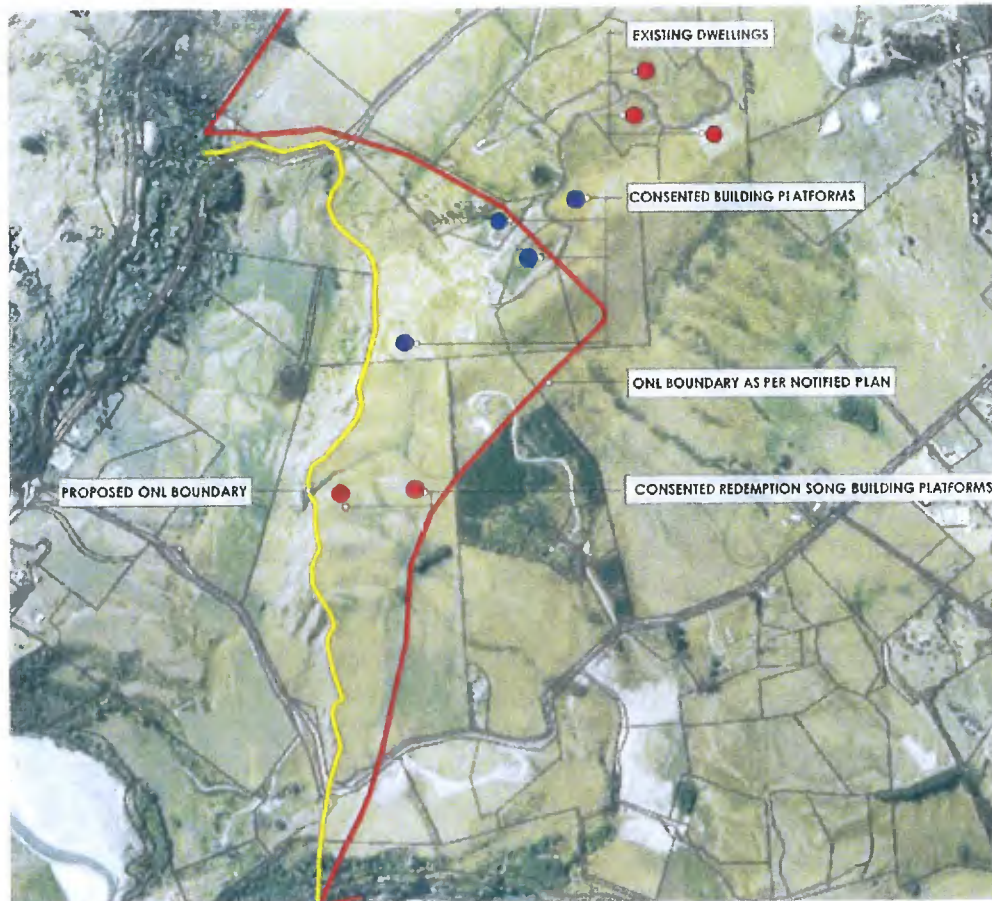


Figure 2 – Proposed ONL boundary, as per Attachment A of Mr Baxter’s Evidence in Chief

17. Ms Mellsop disagreed with Mr Baxter. In her rebuttal evidence, she told us that the ONL boundary identified by the Environment Court<sup>7</sup> remains valid. She considered the presence of additional development since the Court’s decision and assessed this as not having degraded the natural character or other landscape values of the land. She clarified in her rebuttal evidence that while she did not specifically mention the Meehan dwelling, she still maintained that this did not change her previous conclusions. She said:  
*‘... development since 2002 has not degraded the natural character or other landscape values of the land to the extent that it could no longer be considered part of an ONL.’<sup>8</sup>*
18. Mr Goldsmith, legal counsel for Michaela Meehan, handed up a copy of plans and other materials from the Court’s 2002 decision<sup>9</sup> suggesting that the landscape line in both the ODP and as notified in the PDP did not capture the location of the line the Court intended. Mr Goldsmith provided us with a map showing a dashed black line that would put two Northridge building platforms outside the ONL, as the Court intended. Mr Goldsmith told us that, even accepting that the notified ONL

<sup>7</sup> *Wakatipu Environmental Society Inc v Queenstown Lakes District Council C3/2002 [2002] NZEnvC 11*

<sup>8</sup> H. Mellsop, Rebuttal Evidence, at paragraph 8.2

<sup>9</sup> *Wakatipu Environmental Society Inc v Queenstown Lakes District Council C3/2002 [2002] NZEnvC 11*



boundary should be taken to be the location he had shown as dashed, there were no obvious 'on the ground' factors to justify that boundary. He also submitted that the approval of three additional residential building platforms or houses is a significant relevant factor<sup>10</sup>. In response to our questions, Mr Goldsmith provided further information in a memorandum dated 26 July 2018. He attached copies of the relevant resource consent decisions and appended a set of maps giving examples of land classified as a Rural Character Landscape and located between an ONL boundary and a zone boundary<sup>11</sup>.

19. Ms Mellso advised us in her Reply Evidence that Mr Goldsmith was correct and that the notified ONL boundary in the PDP did not correspond with the boundary shown in Environment Court decision C3/2002. She provided a map showing the ONL boundary determined in C3/2002 and her recommended ONL boundary (refer Figure 3, below). She drew our attention to the fact that part of the ONL boundary above Little's Stream also did not accord with the decision but advised there was no submission seeking to change this and therefore recommended no change to the notified ONL boundary at this location. We agree with Ms Mellso that there is no scope to amend the ONL boundary to the position shown by the white line in Figure 3.

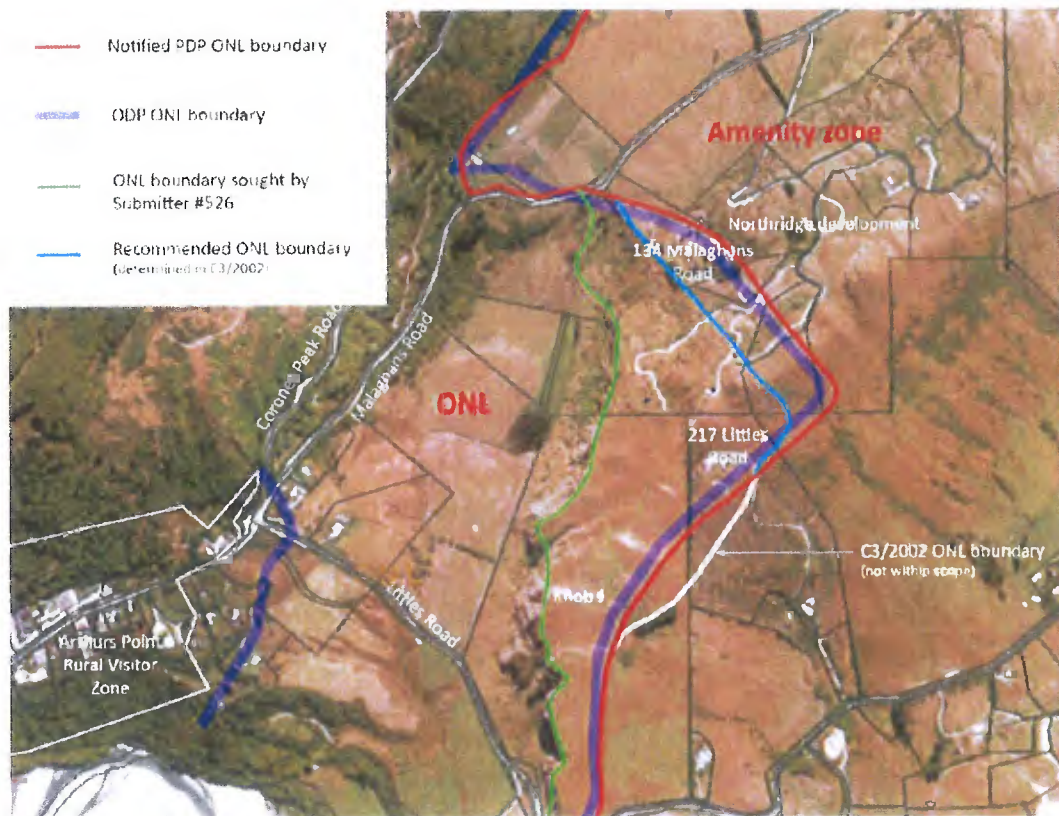


Figure 3 – Amended ONL boundary, as per Figure 4 of Ms Mellso's reply evidence

<sup>10</sup> W. Goldsmith, Legal Submission, at [25(c)]

<sup>11</sup> W. Goldsmith, Memorandum on Submission 526 Michaela Meehan, dated 26 July 2018

20. Having read the resource consent decisions attached to Mr Goldsmith's memorandum<sup>12</sup>, we note those decisions recorded that the consented development would not constitute inappropriate subdivision, use and development in section 6(b) terms. We further note that Policy 6.3.12 of the PDP contemplates development in ONLs in exceptional circumstances where the landscape can absorb the change and where the changes are reasonably difficult to see from beyond the boundary of the site. We rely on the evidence of Ms Mellsop that the consented buildings will not be visible from the valley below<sup>13</sup>. Thus, we find that the presence of the consented building platforms can be distinguished from the situation the Court faced, which prompted it to direct the ONL boundary be moved to skirt the Northridge development. The more recently consented building platforms do not therefore provide a reason to move the ONL boundary so as to place those building platforms outside of the ONL.
21. We agree with Ms Mellsop that it is appropriate to move the ONL boundary where it runs through the Northridge land so that it accords with the intent of the Environment Court decision in C3/2002. We note that we were rather surprised when undertaking our site visit to see that the notified ONL boundary ran through the middle of a building platform where a dwelling was under construction. We thank Mr Goldsmith for bringing this discrepancy to our attention.
22. We therefore find that the ONL boundary should be amended as shown on Figure 4 below and recommend the maps be amended accordingly. We recommend that Submission 526 be accepted in part.

---

<sup>12</sup> Ibid

<sup>13</sup> H. Mellsop, Rebuttal Evidence at paragraph 8.2