

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL HEARINGS PANEL

Under of the Resource Management Act
1991

In the Matter of the renotification of two
submission on Stage 1 of the
Queenstown lakes Proposed
District Plan concerning the zoning
of land at Arthurs Point by
Gertrude's Saddlery Limited and
Larchmont Developments Limited

Submissions of further submitters **R Wolt
and A Hyland**

Dated: 26 January 2023

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MAY IT PLEASE THE PANEL

Introduction

1. These submissions are filed by/on behalf of further submitters R Wolt and A Hyland.
2. We own property and reside at 6 Larkins Way in Arthurs Point, legally described as Lot 44 DP32867. We also own a fifth share in Lot 201 DP329180, which is an access lot (private road) that accesses our property and our neighbours'. We have resided here for over 5 years. Prior to this we owned property and resided at Mathias Terrace (for over 4 years).
3. We strongly oppose the proposed rezoning of both the Larchmont and Gertrudes Saddlery Ltd (GSL) (111 Atley Road) land (together the Land).
4. We view the Land every day, from key roads during our travel to and from Arthurs Point, from roads and reserves within Atley Downs, where Larkins Way and Mathias Terrace are located, and from the Shotover River margins which we, along with numerous other Arthurs Point residents, frequently visit and enjoy for recreational purposes (walking., running, picnicking and water sports). The Land is highly visible from these public places.
5. We also view the Land, in particular, the Larchmont Land, from our property. Our southern property boundary directly adjoins the Larchmont Land. As such, we are one of the parties most affected by the proposed rezoning.
6. While technically we live in an urban area and within an urban growth boundary (**UGB**), the Arthurs Point area has a very 'non-urban' feel. For example, in the Atley Downs area, where we reside, (Mathias Terrace and Larkins Way), there is no urban street lighting - only sparsely spaced bollard lighting; swales in place of kerb and channel; informal (gravelled) footpaths; and a sense of being surrounded, overlooked and dwarfed by the magnificent undeveloped natural landscape that surrounds and envelopes the existing development.
7. Within Arthurs point, there is a feeling of quiet remoteness. The river and its margins are only steps away, and here the feeling of quiet remoteness is magnified. While some development can be seen in the existing urban area from

the river margins, it sits back off the ridge and recedes in its location due to extensive established plantings and flat topography.

8. The entry into Atley Downs has a dramatic feel. When entering off Atley Road, the eye is drawn to and the view dominated by the very large natural form of Queenstown Hill, which forms a dramatic and rugged backdrop to the entry/area. The knoll proposed to be rezoned – which includes the Larchmont Land - sits in the foreground of this view, and until recently, when the established vegetation was removed, presented as an undeveloped landform enclosure or ‘bookend’ to the residential development on the flat land below, buffering this development from the backdropping Queenstown Hill and Shotover River, both of which are classified as ONFs in the PDP, and providing a sense of containment and insignificance to built form within this much larger encompassing landscape.
9. While there is existing development atop the knoll (an incomplete dwelling on the Larchmont Land), until the recent vegetation clearance, this was wholly screened and unable to be seen upon entry into or from within the Atley Downs residential area, nor could it be seen from viewpoints further north on Arthurs Point Road. The recent vegetation removal has fully revealed this incomplete development, and now it sits prominent and highly visible atop the knoll, sprawling across it, breaking the skyline and blighting the view to the backdropping Queenstown Hill and adjacent Shotover River ONFs. We address the legitimacy of this recent vegetation clearance and the Larchmont development more generally, shortly.
10. Putting aside the recent vegetation removal, we value the mostly undeveloped rural character of the knoll and the breathing space it provides between the urban development enclave within which we reside, and the undeveloped and spectacular Shotover River and its margins, and the rugged backdrop enclosing Queenstown Hill.

Our Position, Summarised

11. We consider the proposed urbanisation of the Land as sought by the Larchmont and GSL (together the **Submitters**) is inappropriate for this location and setting, and will give rise to significant adverse landscape, amenity and privacy effects, which have not nor cannot be avoided or adequately mitigated or remedied by

rules or design, resulting in a proposal that is not the most appropriate, or at all an appropriate way to achieve the relevant objectives and policies of the Queenstown Lakes Proposed District Plan (**PDP**) or the purpose of the Act.

12. We consider retention of the status quo – the rural zoning - is the only zoning option that will achieve these and the other required statutory outcomes, and that it is the appropriate zoning for the Land and the locality. As such, we consider the UGB should remain unaltered, recognising and protecting the encompassing ONFLs as presently correctly identified in the PDP.
13. We consider the Submitters' rezoning proposal is poorly conceived, and inadequately and improperly assessed in the Submitters' evidence.
14. We consider the proposed zone provisions, particularly the proposed Large Lot Residential B (**LLRB**) provisions and Structure Plan, are deficient will not ensure the protection of the landscape (whether ONL or not), nor provide the Council with a sufficient degree of control through the consenting phase and subsequently to ensure that the outcomes and benefits touted in the Submitters' evidence will be delivered.

Evidence

15. We have read the section 42A report and supporting assessments prepared on behalf of the Council, including rebuttal evidence, the evidence filed for the Submitters, and the evidence filed for the Arthurs Point Outstanding Natural Landscape Society Incorporated (**APONLS**).
16. We agree with and support the reports and evidence of the Council and APONLS, which takes a comprehensive and balanced approach to the matters at issue and the assessment thereof, in particular, the planning and landscape assessments of Mr Giddens, Ms Evans, Ms Mellsope and Mr S Brown.
17. We have sought landscape and traffic advice in our own right, however, the time constraints of this hearing process and the date for filing expert evidence (just prior to Christmas, in the context of numerous other hearing and Court fixtures) has meant that these experts have been unable to produce written statements. We incorporate their comments, in these submissions, where relevant.

Particular Matters Raised in Evidence

18. As noted, we support the landscape and planning assessments undertaken on behalf of the Council and APONLS, and generally defer to these experts on landscape and planning matters. Several issues raised in the Submitters' evidence require particular mention however:

- (a) Contrary to Mr Espie's evidence, the rezoning proposal will not impact a "relatively small visual catchment" (see for example, Espie para 13). The Land is highly visible from the key road/tourist route of Gorge Rd, in old Arthus Point (near the bustop), where the GSL Land, and any future development on it, is in full view. Presently these views have a rural character, with very little built form evident due to planting, topography, and careful siting. Similarly, the Larchmont Land is highly visible in views from the north, within the existing LDRSZ area (the Atley Downs area in particular), and further north on Arthurs Point Road, when descending the hill from Arthurs Point. These key routes – to and from the Shotover River, Coronet Peak and Arrowtown - are not frequented by a small number of people, but many;
- (b) Similarly, the GSL Land is visible from the Shotover River margins reserve land, which is well utilised by the Arthurs Point community for recreation (walking, cycling, running and picnicking). The Land currently has an undeveloped remote feel, which will change under the rezoning proposal;
- (c) Contrary to Ms Pfluger's assumptions, future development will not be screened by proposed or existing planting. The Submitter's' own evidence is that wilding vegetation within the adjacent DoC reserve land will be cleared, so any screening this currently provides to the Land and will be removed. In terms of the rezoning proposal, the proposed planting is mostly low scale, and set downslope of proposed building platforms. It will not screen future built form, and in some instances (for example on the Larchmont Land, where it is proposed to be located on the escarpment) it will not even soften it.

Larchmont Land

19. The Submitters' evidence primarily addresses the GSL Land. While Mr Fairfax has prepared a statement of evidence for GSL, no such statement has been prepared for Larchmont.
20. As noted earlier, the Larchmont Land sits atop the flat part of the knoll proposed to be rezoned by the Submitters. The northern part of the Larchmont Land slopes down toward the Atley Downs subdivision (Mathias Terrace and Larkins Way), and includes a small escarpment. The northern part of the Land sits below the escarpment, largely separated (but not in accessible) from the higher flatter part of the Land.
21. Recent clearance of large established vegetation on the Larchmont Land (larches) has fully opened up views to the Land so that it is now fully exposed and prominent in views from the Atley Downs area, including the public places of Mathias Terrace and Herron Park, and in views from Atley Road further to the north, (near Nugget Point). In these views, the existing (unlawful, as discussed further shortly) development on the Larchmont Land is obvious and prominent.
22. The Submitters propose LLRB zoning for the Larchmont Land, albeit with a 2000m² minimum lot size. The proposed Structure Plan shows three lots on the Land, with building platforms located in a line along the southern boundary of the Land, above the escarpment and atop the knoll, where the Land is flat and most elevated. Buildings on this part of the land would be highly visible and prominent, unless screened by large vegetation planted at the same elevation of the future buildings and capable of reaching heights greater than the maximum permitted building height. Vegetation of this scale would take many years to establish and perform this screening function.
23. The proposed LLRB Structure Plan (discussed in detail later) shows some structural planting on the northern part of Larchmont Land. This planting appears to be located on the escarpment/slope below the proposed building platforms identified on the Structure Plan, at a significantly lower elevation than the building platforms, (it is difficult to ascertain this with any certainty given the Submitters have not produced a plan that shows the contours of the Land). The planting shown on the Structure Plan would therefore do little, if anything, to

screen future buildings on the Land, and such buildings would sit atop the knoll, fully exposed in views to the Land from the north.

24. Mr Espie, on behalf of the Submitters, assesses the proposed LLRB zoning of the Larchmont Land in his evidence at paras 70 – 73. His assessment focusses on effects on observers within the existing LDSRZ. Presumably here is referring to existing properties, as well as public roads (for example, Mathias Terrace) and reserves (for example, Herron Park) in the existing Low Density Suburban Residential (**LDSR**) area.
25. Mr Espie does not assess the effects of the proposed rezoning of the Larchmont Land on public views from Atley Road to the north (looking south, near Nugget Point). In these views, the proposed development would be prominent and sit above the existing LDSRZ area, appearing as if plonked atop the knoll, and it would break the skyline and adversely encroach on views to the backdropping Queenstown Hill ONF.
26. Mr Espie does not assess in any detail the function of the proposed structural planting on the northern part of the Larchmont Land, and whether this might serve to screen or soften future dwellings on the Land in views to the Land from the north, although he does state that the planting will occur on the steep northern escarpment (Espie, para 72) (this escarpment is presently covered with exotic vegetation), which, given its significantly lower elevation as compared to the proposed building platforms, indicates that the proposed planting will do little if anything to screen or mitigate future dwellings, as just discussed.
27. Mr Espie does not discuss the interface of the proposed LLRB zone with the existing LDSR zone, or assess how existing LDSR zoned properties which enjoy a rural boundary/zone interface might be impacted if that rural land becomes urban. He does not discuss or assess how properties/residents within the existing LDSRZ might be impacted in terms of privacy and amenity effects if this neighbouring rural land is urbanised. Nor are these matters assessed elsewhere in the Submitters' evidence.
28. When assessing the Larchmont Land, and the potential landscape effects of an LLRB zoning for the Land, Mr Espie places a great deal if not full weight on what he describes as the 'operative' or 'existing' situation, with particular reference to

resource consent RM980348 which he says provides for a sizeable, highly visible, 8 metre high prominent dwelling on the Larchmont Land (see for example, Espie, para 57, and 70 - 73). He also references the recent vegetation removal which has given direct views to Land and development consented under RM980348 (for example, Espie para 71).

29. The large dwelling referenced by Mr Espie is the incomplete dwelling now visible atop the knoll.
30. Mr Espie's assessment is that development enabled by the proposed LLRB zoning and Structure Plan would result in no worse or only slightly increased adverse effects as compared with the 'existing' consented situation (i.e. under RM980348), and that in this context, the adverse landscape (visual) effects "*in comparison to the existing situation*" will be of a "*very low*" degree (Espie para 73).
31. However, in reaching these conclusions, Mr Espie does not discuss or take account of the consent conditions for RM980348, nor the lawfulness of the recent vegetation removal in terms of the consent. In particular, he does not account for the RM980348 consent conditions requiring the mounding and the retention in perpetuity of established vegetation (now removed) to provide ongoing total screening of the large dwelling enabled under the consent. Nor does he assess the effects of the rezoning proposal if RM980348 were not in place and the Larchmont Land was undeveloped rural land. These are significant omissions in Mr Espie's evidence. RM980348 is now discussed in detail.

RM980348

32. RM980348 provides for the construction of a large dwelling on the Larchmont Land, being the dwelling now visible on this Land atop the knoll (but excluding the various shipping containers and other buildings seen on the Land and in the aerial photograph at Figure 2 of Mr Giddens' evidence (his page 8) which are unconsented). The application was lodged by M and J Murphy in 1998. The original application plans are **attached**. The architecture of the proposed dwelling has caused it to be colloquially described as 'the Castle'.
33. The application was declined by the Council at first instance for reasons including that the site was located within the foreground of a number of outstanding

natural features and landscapes including Ben Lomond, Queenstown Hill, Cecil Peak and distant views across Lake Wakatipu through a corridor along Gorge Road, and that development would be highly visible and prominent in this context and location, and would compromise the rural backdrop and the amenities afforded to the lower lying LDSRZ land. Further, that the landscape values of the area were a significant natural resource that had to be carefully managed to provide for the wellbeing of future generations. A copy of the Council's first instance decision is **attached**.

34. On appeal to the Environment Court, the application was modified so as to reduce the height of the proposed dwelling; construct an earth berm across the lower part of the visible elevation of the dwelling; and maintain existing vegetation for screening purposes.
35. The modified application was approved by the Environment Court by way of consent order issued in 2001 (C20/2001).
36. The approved consent included conditions requiring that:
 - (a) no part of the dwelling be higher than **5.5 metres** above existing ground level (Condition x);
 - (b) an **earth berm 1 metre in height** be constructed between the points marked "D" and "F" on the plan attached to the decision (also attached here) (Condition (xi));
 - (c) That the existing (numerous) **larch trees identified on the plan be *"retained and maintained, and not pruned to any extent that would compromise the ability of the trees to act as an effective screen"*** (Condition xvi).
37. Attached to the approved consent were sketches showing the trees referenced in Condition xvi as completely obscuring/screening the main dwelling in views from the north. Under the condition of this consent, the residential dwelling, although large and sprawling, would be largely imperceptible on the Larchmont Land in views from beyond the Land, and the Land would continue to read as part of the undeveloped rural environment and backdrop to the existing LDSRZ area.

38. A copy of C20/2001 and the relevant plan and sketches are **attached**.
39. Thus, while C20/2001 (RM980348) provided for a sizeable dwelling on the Land, it was to be no more than 5.5m in height (not the 8 metres assessed by Mr Espie) and completely screened from views to the north, including the adjacent LDSRZ and further north on Atley Road, near Nugget Point Hotel, through establishment of the earth berm and retention of established vegetation (larch trees), so that the rural living/dwelling provide for by the consent would not be visible or prominent, but for the most part imperceptible from beyond the Land.
40. As noted earlier, and disused at some length in Mr Espie's evidence, the incomplete dwelling consented under RM980348 is now highly visible and prominent. It sits in the foreground of views to the Queenstown Hill ONF and breaks the skyline, blighting the landscape, out of place in its elevated context. However, this has only recently come about, due to the extensive (unlawful) vegetation clearance undertaken on the Larchmont Land late last year, just prior to the exchange of evidence for this hearing.
41. Prior to the removal of the vegetation (large mature larches), existing development on the Larchmont Land could not be seen from beyond the Land, with the trees performing the screening function anticipated by condition xvi of RM980348. The recent vegetation clearance includes the total removal of the trees required to be retained in perpetuity under this consent condition. This clearance has also revealed that the earth berm required by RM980348 (condition (xi)) to screen the dwelling has not been constructed.
42. With reference to RM980348, the removal of the vegetation on the Larchmont Land is unlawful and in breach of the consent. It follows that the development, including the large prominent partially unbuilt dwelling, is on the land unlawfully, noting again here that as well as the unlawful vegetation clearance, the earth berm required by the consent has not been established.
43. But for these unlawful acts, the existing built development on the Larchmont Land would not be prominent, or indeed in any way visible, on the Larchmont Land. The Land would continue to bookend the LDSRZ development below, providing a natural and visual buffer between this development and the adjacent ONFs.

44. The assessment of the rezoning proposal should assume that this existing development on the Larchmont Land is fully screened and that the large larch trees required to be retained by the consent are present. Alternatively, it should assume that the Larchmont Land is bare rural land, with no residential/rural living development rights. Either way, the landscape change that would be brought about by the proposed LLRB zoning would be significant, when compared against the *lawful* “existing situation”, not the *unlawful* situation Mr Espie, and other Submitter witnesses, have assessed.
45. When properly assessed, the landscape change brought about by the proposed rezoning, suburban in character, highly visible, prominent and open, as compared with the consented situation, a 5.5 metre high single dwelling that is fully screened from view with mature vegetation and earth berm, is undoubtedly significant.
46. Had Mr Espie undertaken his assessment of the proposed LLRB zoning on this proper comparative basis, the conclusions he reaches as to the significance of the effects of the rezoning would undoubtedly be very different. As compared with the consented situation - where development is required to be screened from public and private views, the proposed LLRB structure plan development, three large 7 metre high dwellings with only low scale down slope planting that provides no screening function - will be a significant change to the status quo, resulting in development that is obvious, prominent, breaks the skyline and encroaches into and degrade views of the backdropping Queenstown Hill ONF.

Lapse

47. Section 125 of the Resource Management Act provides that a resource consent lapses on the date specified in the consent, or if no date is specified, 5 years after the date of commencement, unless before that time, the consent is “given effect to”.
48. (The 5 year lapsing period was introduced by an amendment to the RMA in August 2003. Prior to that, the lapsing period was 2 years from commencement of the consent. For the sake of convenience, because in either case the period has well and truly passed the application of the 2 or 5 year period is not discussed in detail here.)

49. As above, RM980348 approved by the Environment Court (i.e., ‘commenced’) 2001 (February). No lapse date is given in the consent, which means that, under section 125 (per the 2003 amendment) the consent would lapse in 2006 (or 2003 pre the 2003 amendment), if not given effect to prior to that date.
50. Case law provides guidance as to when a resource consent is “given effect to” for the purposes of section 125. Relevant considerations include:
- (a) The purpose and substance of the consent, which is central to the examination;¹
 - (b) The examination is largely one of fact and degree;²
 - (c) The starting point is to examine the nature of the work authorised by the resource consent, and what has done to give effect to the consent;³
 - (d) When considering whether a consent has been given effect to, as well as considering whether the activity consented has been established, whether the conditions have been performed or satisfied must also be considered.⁴
 - (e) In order to be “given effect to” a consent cannot be neglected, or “put in the bank” to be used at some future time.⁵
 - (f) Substantial effort or progress does not amount to “giving effect to”.⁶
 - (g) There are compelling reasons of policy why a consent should not subsist for a lengthy period without being put into effect, including:
 - (i) changes in physical and social environments, knowledge, and district planning schemes;
 - (ii) a consent cannot properly remain a fixed opportunity in an ever-changing scene;

¹ *Friends of Nelson Haven and Tasman Bay Inc*, at [17].

² *Biodiversity Defence Society Inc v Solid Energy New Zealand Ltd* [2013] NZEnvC 195 at [66]

³ *Goldfinch*, page 15; *Biodiversity* [2013] NZHC 3283 at [67].

⁴ *Biodiversity* [2013] NZEnvC 195, at [56].

⁵ *Biodiversity* [2013] NZHC 3283 at [67].

⁶ *184 Maraetai Road Ltd v Auckland City Council* [2015] NZEnvC 213 at [15].

(iii) so that other applications for consents are not artificially constrained (or here, eabled) by uncertainties as to whether previous consents will be put into effect or not.⁷

51. As discussed earlier in these submissions, and throughout the Submitter evidence, and as is apparent from visual observations, the large dwelling authorised by RM980348 is for the most part, incomplete. It appears that some foundation work has been carried out and a two storey garage structure partially constructed (with walls and a roof, but without windows or doors and not fitted out) however the garage structure is not connected from the main structure as anticipated by the approved plans, nor is the completed eastern part of the dwelling. The main structure (and it would seem, the unconnected garage) is not inhabited and is presently uninhabitable.
52. As far as we are aware, no building work on the main dwelling has been undertaken within the past 10 years (our tenure at Arthurs Point), and the building has remained in its current uncompleted state throughout this period.
53. As discussed earlier, two key conditions, requiring construction of the earth berm and retention of the mature larches, have not been complied with.
54. Comparing what has been constructed with what is consented, the majority of the consented works have not been undertaken or completed, and the consent conditions have not been complied with, leading to a conclusion that RM980348 may have lapsed.
55. If the consent has lapsed, the consented development should be disregarded altogether when assessing the effects of the LLRB zoning proposal, and the change that will be brought about by the rezoning should be assessed against a bare rural land scenario. In this circumstance, the change brought about would be prominent, significant and adverse.
56. Given the erroneous assumptions of Mr Espie and the consent breaches discussed earlier in these submissions, it is presently not necessary to explore the issue of lapse in any further detail; however, we reserve our position on this issue.

⁷*Katz v Auckland City Council* (1987) 12 NZTPA 211; *Biodiversity* [2013] NZHC 3283 at [57]-[59]).

Privacy Impacts

57. Rezoning the Larchmont Land from Rural to LLRB will result in privacy impacts on our property which have not been assessed.
58. As described earlier, our southern property boundary adjoins the Larchmont Land on its northern boundary. As also described earlier, the northern part of the Larchmont Land is set lower and separated from the central and southern parts by an escarpment/slope, although it remains accessible from these more elevated parts of the Land.
59. The Larchmont Land below the escarpment is not visually separated or distinct from our land (which is also sloped in this location) and there is no formal boundary between our property and the Larchmont Land. One can stand on the Larchmont Land and look directly into our outdoor living (patio) area (which we use regularly as it is bathed in all day sunshine) and into our indoor living areas and a bedroom, as our dwelling is extensively glazed on this elevation with floor to ceiling windows and numerous glazed bi-fold doors. Despite this, presently the Larchmont Land is not used or accessed by the occupants of the single dwelling on the Land, as there is no need to do so given the sizeable flatter area available for use by the dwelling occupants on the elevated part of the Land in proximity to the existing dwelling.
60. If the LLRB zoning of the Larchmont Land is approved, the Land will be more intensively occupied (three dwellings as compared with the current single dwelling) and lot sizes will be considerably smaller than the present large rural lot. There is thus a much greater likelihood that the Land below the escarpment adjoining our southern property boundary will be utilised by future occupants of the LLRB zoned land, given the smaller lot size and increased occupation, as compared with the existing situation. At the very least, the Larchmont Land below the escarpment will need to be regularly accessed in order to maintain the proposed structural planting on the escarpment.
61. Fencing the boundary in this location would be costly and of little if any utility given the slope of the land and the more elevated nature of the Larchmont Land.

62. The likely increased use of this area arising due to the LLRB zoning will give rise to privacy impacts on our property which have not been considered or assessed, and which are of considerable concern to us.

Traffic Impacts

63. The Council's section 42A report raised concerns with the access road to the proposed development, and whether this could be upgraded to a suitable standard to accommodate the predicted traffic levels if the Land is rezoned as proposed. The Submitters have since provided further assessment of these matters, and the Council's traffic expert Mr Smith is now satisfied that the access road can be upgraded to a suitable standard.
64. However, the feasibility and methods for undertaking the upgrades (widening) have not been considered or assessed in either the Submitters' or Council's evidence. We have sought expert advice on this matter.
65. We are advised that the access road is currently narrow. The area shown with the red arrow, in the image **below**, is a rock outcrop:



We are advised that widening this area is significant work and can only be undertaken from within the existing road.

66. We are advised that this will require a large rock breaker (assuming blasting will not be allowed), loader and truck, which will physically block the road while working. We are advised that the road will accordingly need to be closed to traffic while the works are undertaken, and that the works may take some time (many months, or more). This will present a significant problem for access to other properties on the road, including for emergency vehicles, which may require access while the road is blocked. We are advised that given the width of the road, the large vehicles and machinery will need to back down the road to clear it to allow access for such vehicles. This will not be a quick or easy exercise.

This would cause considerable inconvenience and delay, which is a particular and significant concern for emergency vehicles. .

67. Similarly, when building the retaining walls necessary for the upgrade/widening on both sides of the road in the area shown with the blue arrow on the plan (above), the road will need to be closed, giving rise to the same inconvenience, delay and health and safety (in so far as emergency vehicle access is concerned) discussed in the preceding paragraph.
68. It is also noted that the large established hedge along the boundary of 85E and 107 Atley Road shown in the photos below) would likely not survive these works.
69. As noted, these construction related effects - which are significant and adverse - have not been considered or assessed in the Submitter or Council evidence. It is difficult to see how they could be overcome.

Touted Benefits

70. The Submitters' evidence suggests several benefits will arise from the proposed rezoning, namely:
- (a) Recreational benefits;
 - (b) Increased housing supply;
 - (c) Wilding control.
71. These are now addressed in turn.

Recreational benefits

72. Numerous references are made throughout the Submitters' evidence to public access and recreational benefits that will arise if the land is rezoned as sought, including future connections to the Queenstown Trail. However, no such benefits will arise due to the rezoning.
73. The proposed Structure Plan shows an indicative trail link, located to the south/south-east of the Land, outside the Structure Plan area/ area proposed to be rezoned. The indicative trail is not currently formed. Nor is it proposed or confirmed to be formed by any third party.

74. The proposed LLRB zone provisions do not address or require the formation of the trail link – nor could they given it is outside the area that would be zoned LLRB, on land not owned by the Submitters.
75. The indicative trail link does not align with the route supported by the Queenstown Trails Trust (QTT) in its further submission on the Submitters' rezoning proposal. QTT's submission supports a trail link through the Submitters' Land, not adjacent to it.
76. The location for the trail shown on the Structure Plan (albeit outside the Structure Plan area) is steep, bluffy and inaccessible in parts. It does not provide access to the river below (which is gorge). Forming a trail in this location would be challenging, if possible, and the resulting trail would be dangerous.
77. The indicative trail link is a trail to nowhere. It does not link with any formed or existing trail. It appears to link to a small existing council reserve that is accessed off Larkins Way. Access to the reserve is over private land – being our access lot (Lot 201 DP329180). Access to the reserve over our land is via a row of way pedestrian easement, in favour of the Council. The easement does not provide for through-route access, or for access by cycle or vehicle. In order for the indicative trail to pass over this private land, a new easement would be required. As landowners, we would not agree to such easement, given the privacy and safety impacts and increased maintenance requirements that would arise due to the significantly increased cycle and other through route use.
78. Thus, the indicative trail link shown on the Structure Plan is meaningless. Nor is it within the scope of the submission (being outside the Submitter Land/the land addressed by the submission). It has no connection whatsoever to the proposed rezoning; it is not proposed to be formed or funded by the Submitters, nor could that be required through this process (given it is outside the submission area).
79. Even if the indicative trail were rerouted so as to pass through the Submitters' land, as supported by QTT in its further submission for example, it would still be a trail to nowhere. As noted above, it would not link with any existing trail or trail network, and it could not link to local roads (Larkins Way and Mathias Terrace), given a new easement over our land would be required, which we would not agree to.

80. The Submitters' evidence also suggests that rezoning the Submitters' Land will enhance public access to the adjacent reserve land (seemingly apart from providing access to the non-existent trail). The Structure Plan shows one access point to this land, on the Land's south east boundary. As noted earlier, the reserve land in this location is steep, bluffy and dangerous. It does not provide access to the river below, There is thus no benefit of providing access to the adjacent reserve land in this location —or indeed in any location adjacent to the Submitter's land, as all land is steep a bluffy along this boundary and it does not provide access to the River.
81. There is also some discussion in the Submitters' evidence of a provision of public reserve atop the knoll. This is not shown on the Structure Plan, nor is it addressed by the proposed zone provisions. In any case, a reserve in this location is a nothing more than a token (and unsubstantiated) gesture for the use of land not otherwise suitable for residential development, due to its steep topography.
82. In sum, despite the various references throughout the Submitter evidence to increased public access to reserve land, open space and future trail links, the zoning proposal does not include any mechanism to ensure these outcomes, and the benefits are otherwise manifestly overstated.

Increased Housing Supply

83. Mr Foy, for the Submitters, has assessed the economics benefits of the proposal, although he does not appear to be an economist. He is evidence traverses matters much broader than economics; he expresses opinions on planning, urban design and landscape, although he does not claim any expertise in these matters. To the extent he addresses (expresses opinions on and makes assumptions about) these others matters, Mr Foy's evidence should be taken with some caution.
84. Mr Foy states that DoC supports the removal of wilding pines, revegetation and trail and public access improvements proposed as part of the rezoning development (Foy, para 77), which he counts as benefits of the proposal. Similar claims are made elsewhere in the Submitters' evidence,. The Submitters have provided no evidence of DoC's position of these matters however, and DoC itself has not filed any evidence on the zoning proposal. Thus, no weight can be placed

on Mr Foy's (or other) assertions as to DoC's position on the proposal or its intentions for adjacent reserve land.

85. Mr Foy cites new trail access points as positive aspect of the zoning proposal which will benefit tourism in Arthurs Point and the community (at his para 81). Public access and trail benefits of the zoning proposal (or the lack thereof) have been addressed in the previous section of these submissions. No benefits arise.
86. Mr Foy states (at his para 84) that there "*are very limited alternative uses for the Site other than residential*" and that the zoning proposal would "*allow economic activity on a site with no other use*". Mr Giddens has outlined permitted uses within the rural zone, which could conceivably be undertaken on the Land. Mr Foy has not considered these uses in his evidence. Furthermore, in making these statements cited Mr Foy fails to mention the incumbent use – rural living, which is plainly an economically viable use, having been the primary use of the Land for the past 60 years- since the 1960s, when productive use of the land ceased.
87. Mr Foy discusses housing supply, and states that there will be an undersupply of housing in Arthurs Point within the next decade. His views here differ from Market Economics who took undertook a comprehensive review of housing supply from 2020 to 2050 and found there would be capacity within Arthurs Point over that period. Mr Foy assumes that the zoning proposal will provide for a contribution of 41` dwellings to this shortfall (Foy para 42). However, here Mr Foy accounts for dwellings within the existing LDSRZ, which are presently zoned and not part of/addressed by the rezoning proposal, and they should not therefore be counted for in any assessment of the benefits of the proposal.
88. While the numbers differ throughout the Submitter evidence, the actual number of potential new dwellings under the zoning proposal appears to be 27. Mr Foy has thus overstated the zoning proposal's contribution to housing supply.
89. In any case, this level of supply (whether 27 or 41) is nominal in the context of the district.
90. Further, as Ms Evans notes in her rebuttal evidence, there is a surplus of housing supply across the District in the 10 year period that Mr Foy has assessed (Evan, rebuttal, para 5.4).

91. Overall, housing capacity and supply is not a key issue in this rezoning inquiry, given the minimal contribution the proposal will make to housing, and Mr Foy's evidence is of little assistance or relevance to the assessment of the proposal.

Wilding Control

92. The control of wildings on the Land is a benefit much touted throughout the Submitters' evidence. However, wilding clearance has already (recently) occurred; it is not a benefit that will arise due to rezoning the Land.
93. There is general agreement between the landscape experts that the recent wilding clearance has degraded the Land. The Submitter's evidence is that undertaking the structural planting shown on the proposed LLRB zone structure plan will address this situation and result in environmental benefits. The evidence of Mr S Brown is that the current degraded state of the Land due to the recent felling is temporary only, and that in time the land will naturally be revegetated and equilibrium will be restored. Moreover, that the recently felling has made the land even more sensitive to landscape change, as would be brought about by the proposal rezoning, as the land is now open and highly visible from numerous locations. Mr S Brown's evidence is on this matter is objective, comprehensive and well considered, and should be preferred to the competing Submitter evidence.
94. More generally, the Submitters' deliberate actions to degrade the Land by felling vegetation (but not clearing the litter) just prior to this hearing should not be rewarded by rezoning the land so as to purportedly facilitate its improvement through some (limited) native planting and revegetation. The Submitters could, of course, undertake these improvements – native planting revegetation – irrespective of the Land's zoning and the outcome of this process.
95. Indeed, GSL Director Mr Fairfax has himself acknowledged that the zoning of the Land is not relevant to the control of wildings, noting in statements he made to the media at the time the of the clearance: ***“[w]hatever zoning decisions are made, the wilding pines needed to come down. As a long-term local resident, I'm doing right by the land and the community in terms of immediate ecological benefits,”*** maintaining that responsible landowners cut down wilding pines every day *“because invasive pest species of trees need to be controlled, not cherished”*

(see ODT article dated 18 September 2022, copy **attached**). On the bases of these statements Mr Fairfax, as a self-proclaimed responsible landowner, could be expected to continue to control wildings on the GSL Land, regardless of the zoning outcome. There is nothing in the rural zone that would preclude him from doing so.

96. The lawfulness of the wilding clearance on the Larchmont Land has been addressed earlier in these submissions.
97. The Submitters' evidence does not address the extensive earthworks that will be required to remove the stumps of the recently felled wildings in order to ready the land for residential development. Nor does it discuss or assess how the machinery and heavy traffic that will be required for this purpose might impact neighbours' amenity and access. As an effect of the rezoning, this is a relevant matter.
98. As for wilding control, the benefits of the rezoning are overstated in the Submitters' evidence. There is nothing in the proposal that requires wildings to be controlled or removed on an ongoing basis, save for a vague reference in the "information requirements" of the proposed controlled activity subdivision (Chapter 27) rule. The proposed rules and zone provisions are discussed in later in these submissions.
99. Moreover, the zoning of the Land will not necessarily facilitate wilding control. If rezoned as sought, the Land may take some years to be developed, during which time wildings may establish on the Land. The proposed zone provisions do not address this circumstance, nor require wilding removal here, should wildings reestablish before subdivision takes place.
100. Overall, the proposed zone provisions lack teeth and are simply too vague for ongoing wilding control and clearance (if wildings re-establish on the Land) to be considered as a certain benefit of the proposal.

Consultation and Expectation of Development

101. Mr Fairfax has prepared evidence in which he outlines consultation he has undertaken with certain parts of the Arthurs Point community. Mr Fairfax's evidence is that he has "tried" to work with the community (Fairfax para 9), but

the community is disengaged (Fairfax para 13), generally confused (Fairfax para 9), and/or there is a general campaign of opposition spearheaded by certain members of the community who enjoy views onto Mr Fairfax's land (with the inference being there is some ulterior motive at play).

102. There is no substance to any of Mr Fairfax's claims. Despite his claims of consultation, Mr Fairfax has not approached us, as one of the most affected neighbours. In March 2022 we contacted Mr Fairfax directly; in order to seek information about his proposal and discuss our concerns with him, particularly its impacts on our property, prior to making a further submission on the proposal. We asked to be kept informed of his development plans and left our contact details with him. We did not hear from Mr Fairfax subsequently. The first we saw of his plans was October 2022, when his lawyers filed a draft Structure Plan for the Land, although no details of the zone mechanisms/rules were provided.
103. We have no affiliation with the Arthurs Point Outstanding Landscape Society (assuming it is this group to which Mr Fairfax's criticisms are generally directed). We have submitted on the proposal and appear at this hearing in our own right, to present our own, genuine concerns about the proposal.
104. We have no confusion or misunderstanding as to what is proposed, nor are we misinformed; we are acutely aware of the details of the proposal, that the benefits touted by Mr Fairfax and his advisors will not be delivered by the proposal, and that the proposal will irreversibly change and adversely impact the environment that we value.
105. Mr Fairfax claims that *"unless the [Land] is comprehensively rezoned and masterplanned at this stage, I am unlikely to use my land for any reasonable purpose"* (Fairfax, para 15). This is patently untrue. Mr Giddens has outlined the various uses that are permitted on the Land under the Rural zoning. Mr Fairfax has not discussed these, nor are they discussed or assessed anywhere in the Submitters' evidence.
106. Mr Fairfax does however discuss some alternative uses for the Land that he did consider for land he "loves" (Fairfax, para 17), including a music studio overlooking the Shotover River, but he does not say why he is no longer pursuing this use, and is instead now pursuing and urban subdivision for development.

107. Mr Fairfax does not discuss, nor do any of his advisor experts, continuing the incumbent uses – rural living. As noted earlier, the incumbent use is obviously a reasonable and viable use, having been the primary use for the past 60 years, when productive uses ceased. If the incumbent use were to continue, the existing dwellings could be upgraded/redeveloped pursuant to existing use rights. These would likely be high end, valuable properties given their size, secluded location and river/ONFL outlook. There is nothing in the existing rural zoning that precludes this, or precludes Mr Fairfax from enhancing the Land under the status quo, contrary to the suggestion at his para 15.
108. Mr Fairfax’s evidence suggests he considers he has some entitlement to develop the Land. Mr Fairfax bought the Land presumably with knowledge of its Rural zoning and ONL classification (including the limitations that places on development), and presumably for a price which reflected those constraints. He does not have any entitlement or right to develop the Land. There are various other available uses for the Land is not rezoned as sought, as Mr Giddens has outlined, in addition to continuing the incumbent use.
109. Mr Fairfax infers throughout his evidence that his attempts to develop the Land have been thwarted by a few individuals with some vested interest or ulterior motive for stymying his development plans. Any such inference is without base or foundation. The widespread opposition from the community, including ourselves, is due to the fact that the community values the Land in its largely undeveloped rural state, for the landscape values and amenities it provides for the community, bookending existing development within the landscape while allowing the surrounding ONFLs to dominate and provide breathing space.

Zone Provisions

110. The proposal is to apply the existing LDSR Zone provisions, unmodified, to the proposed LDSR zone extension over the Land, and a bespoke form the LLRB zone provisions and a structure plan to the part of the Land proposed to be zoned LLRB. These are addressed in Mr J Brown’s evidence.
111. In his evidence Mr Giddens identifies a disconnect between Ms Pfluger’s assessment of the proposal, including her assumptions about development outcomes under the bespoke LLRB zoning, and the proposed LLRB zone

provisions and structure plan, which he says will not deliver the outcomes assessed by Ms Pfluger. We share Mr Giddens' concerns.

112. Mr Giddens and Ms Evans (and Ms Mellsop and Mr S Brown) consider that the proposed LLRB zone, even with the bespoke modifications, is not a good fit for the Land. We agree. As they identify, the focus of the LLRB zone is on maintaining residential amenity values *within* the Zone, not on maintaining or protecting any landscape values of LLRB zoned land, or adjacent land. Nor does the LLRB address the interface of the zone with other adjacent zones or land. These are significant and material deficiencies of the proposed zoning.
113. The proposed LLRB zoning is very enabling. Subdivision that is "*consistent with*" the proposed structured plan is provided for as a controlled activity, under proposed rule 27.7.XX.1. It is not at all clear when subdivision would not be considered "*consistent with*" the Structure Plan, as the Structure Plan itself shows and requires very little. For example, it does not show lot boundaries. It does not show lot access. It shows building platforms, but there is no associated mechanism on the plan or in the rules requiring these to be "locked in" at the time of subdivision (by registration on the new lot titles for example) so they are nothing more than meaningless lines on the plan.
114. The structure plan shows areas of structural planting. However, the planting required is generally of low level (e.g., tussocks and flaxes), and located at a lower elevation than the identified building platforms. It will do little if anything to screen future built form, particularly if that is located outside the building platform, as could through a discretionary consenting pathway (discussed further shortly).
115. The matters of control include methods to ensure that the structural planting identified on the structure plan "*will be established*" prior to the issue of section 224(c) (27.7.X.X(c)). However, it is unclear what "*will be established*" means, as this is not defined or explained in the rule. It could simply mean that the plants are put in the ground, at any height or grade (the rules do not specify a grade), but they could then take 5-10 years to reach a sufficient height or maturity to provide any softening or screening function (if at all).

116. The matters of control include the “content of a Structural Planting Areas Plan”, the required content of which is set out in the “information requirements” associated with the rule. As a controlled activity, there is no ability for the Council to decline consent if the “information requirements” are not met. Rule 27.7.XX.2 provides that subdivision which does not comply with Rule 27.7.XX.1 is a non-complying activity, but this relates to the consistency with the Structure Plan - which in fact requires very little, as discussed earlier - not the matters of control or information requirements.
117. The information requirements include a requirement for the Structural Areas Planting Plan to specify *“ongoing maintenance and monitoring requirements including irrigation and methods to control animal and plant pest species on an ongoing basis”*. Once this information is provided in the plan, the requirement is met. There is no express ability for the Council to ensure or enforce that the maintenance and monitoring requirements or pest species control is undertaken subsequently. Given that, once subdivided, the land will very likely be on-sold and fall into multiple individual ownerships, the “maintenance and monitoring requirements” referenced in the information requirement, including control of plant pest species, will fall onto individual landowners. The practicalities and efficiencies of enforcing such requirements, and whether individual landowners could in fact be compelled to undertake such action (if that were a possible under or a requirement of the rule, which it is not) have not been considered or assessed in the Submitter evidence. Furthermore, the information requirements discuss “maintenance”. This begs the question “maintenance” of what? There is a vague reference in the information requirement to “control of pest plant Species” but no express requirement to clear or keep the Land entirely free of wildings – despite this being a purported benefit of the rezoning much touted throughout the Submitter evidence.
118. Moreover, with regards to any new plantings, there is no express requirement in the rule for these to be maintained in perpetuity (for example, by way of covenants requiring the same) or replaced if diseased or dying. As such, there is uncertainty as to the ongoing or longer term utility of any such plantings.
119. The matters of control include the “methods” *“to ensure public walking and cycling access through the zone and to the adjoining LDSR connecting public land*

to the south” (Rule 27.7.xx(e)). The wording and intent of this clause is unclear, particularly insofar as it addresses the “adjoining Lower Density Suburban Residential Zone”. From where and to where are these connections to be provided? The utility and benefits of any such “connections” (or lack thereof) have been addressed earlier in these submissions.

120. Overall, Rule 27.7.XX.1 is vague, superficial in so far as it provides very little control or direction over the important landscape and other matters addressed in these submissions, and lacks any teeth. It will not ensure delivery of the outcomes or benefits assumed and assessed in the Submitter evidence. It is a highly complex and convoluted rule for an urban zoning and fails to deliver on ensuring appropriate landscape and other outcomes. The nature of the rule itself serves to underscore that the urban zoning is simply not appropriate for this sensitive rural land.
121. The proposed land use rules in Chapter 11 suffer the same deficiencies as those in Chapter 27.
122. As Mr and Ms Evans identify, the focus of the objective of the LLRB is to maintain residential amenity *within* the LLRB zone. There is no direction to consider landscape or other impacts on land within or adjacent to the Zone. Proposed new Policy 11.2.1.5 does not sit well under or implement this objective. Its focus is also too narrow – on the Shotover River ONF, whereas the potential landscape and other impacts of the proposed rezoning are much wider than that and include visual amenity and privacy impacts outside the LLRB zone, and impacts on the surrounding rural landscape and back-dropping ONLs.
123. The proposed LLRB rules are very enabling. Dwellings are permitted within the building platforms shown on the proposed structure plan, and discretionary outside these platforms. As discussed earlier, there is nothing in the proposed Chapter 27 rules that requires these platforms to be locked in at the time of subdivision. The Structure Plan which depicts the building platform locations is a 2D, black and white, coarse grained plan that does not show contour lines or any topographical features. It would be nearly impossible to ascertain with any certainty whether or not a future dwelling is located within or outside a building platform as shown on the Structure Plan. A discretionary consenting pathway is relatively liberal in the context of the Land and its landscape sensitivities, and could

negate any certainty of outcome that the structure plan is touted to provide. Furthermore, the structural planting areas shown on the structure plan assume dwellings are located within the building platforms shown. If they were to be located outside these platforms, which they could be as a discretionary activity, the structural planting areas would serve little if any purpose in that may provide little if any softening or screening function for the moved dwelling.

124. The same comments apply to “*residential domestic elements*” which are to be located within the identified building platforms, but may be located outside these areas as a restricted discretionary activity, negating and certainty of outcome otherwise provided by the Structure Plan.
125. Dwellings of up to 7 metres in height are permitted. Contrast this with the proposed Structural Planting areas, within which only 30% of vegetation is required to reach a height of 5 metres at maturity, with that percentage able to be calculated across all Structural Planting areas (i.e there may be building platforms where no plantings of this height are proposed in the adjacent Structural Planting area). The general low scale of the proposed structural planting (mostly tussocks and flaxes), the uncertain and limited instances of higher plantings, and its location in almost all (if not all) instances downslope of the identified building platform, (and noting again the permissive consenting pathway to locate building outside the identified platforms), means that 7 metre high buildings are unlikely to be screened or softened at all by the proposed structural planting, but will be obvious and prominent on the Land.
126. Large buildings – of up to 500m² in size, are provided for per “*net site area*”. It is unclear what is intended by this rule, particularly the words “*net site area*”. In any case, for the same reasons given in relation to building height, buildings of this size will be prominent and obvious on the Land.
127. Urban lighting is provided for. However, lighting in the adjacent residential areas, in particular in the adjacent the Atley Downs area is low level bollard lighting of a low lux and spill, so that the area feels dark and remote at night. Lighting of the proposed LLRB and LLSR zones could undermine this.
128. All in all, the proposed zone provisions (land use and subdivision) liberally provide for development and built form on the Land and do not address the sensitives of

it. Nor do they ensure that the outcomes assumed and assessed in the Submitters' evidence will be achieved, and that adverse landscape and other effects are adequately addressed.

129. Ms Mellsop has recommended a number of substantive changes to the provisions, in the event that the Panel is minded to approve the rezoning, although fundamentally she remains opposed to the LLRB zoning of the Land in any form. We generally agree with Ms Mellsop's position, although, like her, we remain fundamentally opposed to the rezoning proposal and particularly concerned about landscape impacts and impacts on our privacy due to the proposed residential use on our currently rural southern boundary.

Statutory Assessment

130. In terms of section 32, there are no wider ecological, environmental or community benefits of the rezoning proposal, but there are significant costs.
131. The proposal is not the most appropriate way to and does not achieve the key objectives of the PDP, including the following strategic objectives (SO) and policies (SP):
- (a) SO 3.2.1.8 – while the zoning would provide for diversification beyond traditional rural activities, it would not protect landscape values of the adjacent ONFLs, nor maintain or enhance the visual amenity values and landscape character of the rural landscape;
 - (b) SO 3.2.2.1 it does not promote logical urban development that is not integrated with its environment and the landscape, but rather, development will present as urban sprawl atop an elevated and prominent landscape feature – the knoll, contrary to and inconsistent with existing urban form which is contained and bookended by the knoll and other topographical features;
 - (c) SO 3.2.3 and 3.2.3.2 – it will not achieve a built environment that takes account and integrates with the character of the existing urban environment and its community, but will present as inappropriate sprawl from that; development and community;

- (d) SO 3.2.4 – it will not protect the natural environment, with its distinctive geographical features;
- (e) SO 3.2.4.2 – despite being touted as a significant benefit, it will not ensure that the spread of exotic wilding vegetation is avoided;
- (f) SO 3.2.4.3 – it will not preserve and certainly not enhance, the natural character of the Shotover River margins, but will encroach upon and degrade these margins;
- (g) SO 3.4.5 – Despite being a much touted benefit, it will not enhance public access to the natural environment/reserve land;
- (h) SO 3.2.5, 3.2.5.2, 3.2.5.3, it will not protect or ensure retention of the distinct Shotover River ONF, will encroach on and degrade views to the Queenstown Hill ONF, and degrade the wider ONL;
- (i) SO3.2.5.5 – even if not all the Land is within and ONL, it is within a rural character landscape, and in this regard, the proposal will not maintain landscape character or visual amenity values of this landscape;
- (j) SO3.2.5.6 – development enabled by the proposed rezoning will compromise the landscape values of the adjacent Shotover River ONF;
- (k) SO 3.3.20 – it will not ensure maintenance or enhancement of the natural character of the Shotover River margins;
- (l) SO 3.3.27 – it will provide no meaningful public access to the natural environment/reserve land;
- (m) SO 3.3.30 – it will not protect the landscape values of the identified Shotover River ONF and wider ONL;
- (n) SO 3.3.31 – it will give rise to significant adverse effects on the ONFLs, and the landscape more generally, which has very little capacity to absorb change given its open, elevated and prominent location;
- (o) SO 4.2.1 – it will result in an urban environment that no longer has a distinct edge, but which sprawls on and atop elevated and prominent landform and into the rural and ONFL environment;

- (p) SP 4.2.1.4 – it is not necessary to achieve this SO, as there is already sufficient housing capacity within the district, in the medium term, and will not promote a compact or efficient urban form, nor avoid sporadic development in what is otherwise and rural area;
- (q) SP 4.2.1.5 and 4.2.1.5a –extending of the UGB, as sought in conjunction with the proposed rezoning, will not protect the values of the Shotover River OF and wider ONL, nor minimise significant adverse effects on what is now (since recent tree removal) an open rural landscape;
- (r) SP 4.2.2.B – even if the urban growth boundary were extended over the Land, urban development within it would not maintain or enhance the environment nor protect ONFLs, but would significantly and irreversible degrade these;
- (s) SP 4.2.2.2 – the zoning proposal and proposed relocated of the UGB does not recognise or respect topography, integration with existing urban development, which is located within the landscape, not atop it, does not integrate with existing development in in so far as it does not account for or address privacy impacts, nor does contribute to providing a mix of housing densities and forms;
- (t) SP 4.2.2.4 -will not provide any meaningful connections to reserve or open space;
- (u) SP 4.2.2.13 – it does not promote an UGB that is based on exiting development/urbanised areas (the land is presently undeveloped), does not protect the values of the ONFLS, and does not avoid sprawl across the rural area;
- (v) SP 6.3.3 and 6.3.3.31 will not protect the landscape values of the Shotover River ONF, which is partly within the Land, and otherwise adjacent to it, nor the wider ONL, and development will be prominent and obvious on the Land, not reasonably difficult to see;
- (w) SP 6.3.3.2 – it does not recognise or respect the geological features of Shotover ONF or the wider ONL within which the Land is located;

- (x) SP 6.3.3.5 – will not maintain the now open (since tree removal) character of the ONL;
 - (y) SP 6.3.4 and 6.3.4.1 – even if the land is not ONL, it is within a rural character landscape, and is not at all consistent with the objectives and policies of the PDP, as evidenced from the analysis above;
 - (z) SP 6.3.4.8 – it will result in development that is highly visible from public places, including the key tourist and commuter route of Gorge Road to the south of the Land, roads and parks (Herron Park) within the Atley Downs subdivision to the north of the Land, and also further north on Atley Road, where the Land and any further development will be highly visible and prominent on the prominent and elevated knoll that forms the foreground of views to the backdropping Queenstown Hill ONF.
132. Overall, the proposal is overwhelming at odds and does not achieve the vast majority of the key objectives and policies of the PDP. It is a ‘non-fit’ with the strategic direction and scheme of the PDP, including its focus on careful urban design and location, and protecting landscape and visual amenity values.
133. On any objective assessment, the proposal plainly does not stack up against the PDP policy framework.
134. In terms of the Council’s functions under section 74, the proposed zoning will not achieve the integrated management of the effects of the use, development and protection of the land and associated natural and physical resources, but it will give rise to significant adverse landscape and other effects include privacy and amenity effects. It will not provide any meaningful contribution to housing supply, nor adequately address or control the actual and potential effects of the use of the Land, and does nothing to ensure the maintenance of indigenous biological diversity.
135. In terms of Part 2, the proposed rezoning does not ensure the protection of the Shotover River and Queenstown Hill ONFs and surrounding ONLs, or the natural character of the Shotover River corridor and margins, from inappropriate subdivision use and development (section 6(a) and (b))– which are wholly relevant considerations, given the Land is adjacent to and party within the Shotover River ONF and its margins, is prominent in the foreground of the

Queenstown Hill ONF, and nested within a wider ONL, despite Mr J Brown's unusual statement at para 8.1 of his evidence that section 6 matters are not directly engaged by the rezoning proposal. The comprehensive and well considered evidence of Mr S Brown and Ms Mellisop is that these ONFLs will not be protected but will be significantly adversely impacted by the rezoning proposal. This evidence should be preferred.

136. The proposal is not consistent with the ethic of stewardship (section 7(aa)), in that rather than preserving, enhancing and /or restoring the natural character of the land, the proposal will change it irreversibly, by urbanising the Land and introducing substantial and prominent built form elements, as well as irreversibly altering the natural, significant and unique landform (through earthworks) to facilitate this.
137. The proposal will not maintain or enhance amenity values of or the quality of the environment (section 7(c) and (f)), but will significantly adversely impact those qualities and values, including impacting natural character, visual amenity and privacy (section (c) and (f)).
138. The proposal will adverse impact and irreversibly change the finite natural characteristics of the land (section 7(g)), through the introduction of suburban built form elements on an otherwise natural and relatively undeveloped prominent knoll.
139. In terms of section 5, the proposal does not promote the sustainable management of the landscape resource, nor does it assist with enabling the community to provide for its economic, social and cultural wellbeing, or its health and safety. The only benefits are economic benefits to the Submitters; there are no wider benefits. There are however significant adverse effects – on landscape, amenity, privacy and traffic - that will arise from the proposal, which have not been avoided remedied or mitigated.
140. Overall, the rezoning proposal will give rise to significant adverse effects, will not achieve important objective and policies of the PDP, nor Part 2 of the Act. It does not pass the section 32 tests and should be rejected.

Summary and Conclusion

141. The Submitters' evidence is that the Land is not and ONL, and as such, is suitable for urban development. Whether or not it is ONL (we support the Council's and APONLs evidence on this point), that is not decisive of the zoning question. Even if not ONL, it does not then follow that the Land is suitable for urbanisation (as the Submitter evidence appears to assume). The Land is undisputedly directly adjacent to the Shotover River ONF, and prominent in the foreground of view to the Queenstown Hill ONF. Section 6 of the RMA is engaged. The PDP directs careful consideration of these matters before allowing development.
142. In addition, the land is presently rural, with a rural character. It is elevated and highly visible from many vantage points, including key roads and tourist routes in the Wakatipu Basin: the key route from Queenstown to the Shotover River Jet and Coronet Peak, and a key route to Arrowtown. The land is viewed by many from these vantage points, tourist and locals alike, and the viewing catching is not "limited" as the Submitter evidence suggests.
143. The recent vegetation clearance has opened up the landscape and visibility of the Land considerably. The landform is now revealed, including the geological process and features and the Land's association with the adjacent Shotover River ONF. Development on the Land now has nowhere to hide. It will be highly visible and prominent from key viewpoints. The planting proposed will not address this; it is set downslope and too low in height, and it will take too long to establish.
144. The change to the landscape will be permanent and irreversible. It will be a change that is observed in years to come and the question asked "*how was this allowed?*"
145. The recent change – vegetation clearance – has degraded the Land, but this is a temporary change and in time the Land will restore itself. Or, the Submitters could be responsible and proactive in this regard, irrespective of the Land's zoning.
146. Despite its open nature, development on the Land is still relatively sparse, and the rural and natural appearance dominates. Development atop the knoll, on the

Larchmont Land, is prominent, but it is unlawful and should be disregarded when assessing the landscape change and effects of the rezoning proposal.

147. Development on the Land, as the rezoning proposal would allow, will encroach on and degrade the experience and values of the adjacent Shotover River ONF, with its presently rugged and remote character. It will present as urban development in a rural landscape – particular in views from the south, on Gorge Road, across the River, where presently very little built form can be seen, and a rural appearance predominates.
148. Development atop the knoll, particularly when viewed from the north, would present as urban sprawl from the lower lying LDSRZ, which is currently contained and bookended by the undeveloped (or seemingly undeveloped, in accordance with the conditions of RM980348) knoll landform. It will encroach into and degrade views to the backdropping Queenstown Hill ONF; an adverse effect which has not been assessed in the Submitter evidence.
149. This case concerns more than effects on the landscape. It concerns a proposal that fundamentally cuts across the scheme of the PDP.
150. It also concerns effects other than landscape, such as effects on privacy, amenity and traffic/construction effects, which effects are significant, but not assessed in the Submitters' evidence.
151. There is no right or entitlement for the Submitters to develop the Land. Continuation of the incumbent use – rural living – is a viable alternative that has not been properly assessed or evaluated in the Submitter evidence.
152. No community or wider benefits arise. Wilding clearance has already occurred and is not offered as part of or required by the rezoning proposal. Recreational benefits and access to reserve land are overstated, uncertain and cannot be achieved under the proposal, due to landownership and topography. The rezoning would make an insignificant contribution to housing supply.
153. Overall, the rezoning proposal is poorly conceived, and a poor fit for the location. The proposed zone provisions and structure plan do not provide any or adequate certainty of outcome over the key matters at issue.

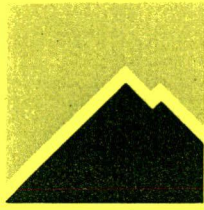
154. The proposal should be rejected.

Dated this 26th day of January 2023

A handwritten signature in black ink, appearing to be 'R Wolt', written over a horizontal line.

R Wolt

For and on behalf of R Wolt and A Hyland



QUEENSTOWN LAKES DISTRICT COUNCIL

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18 July 2000

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C/- Anderson Lloyd
PO Box 201
QUEENSTOWN

Dear Sir/Madam

DECISION OF THE QUEENSTOWN-LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

M & J MURPHY – RM980348

Introduction

I refer to your application for resource consent under Section 88 of the Resource Management Act 1991 to erect a second residential unit on a rural property located off Atley Road, Arthurs Point. The application was considered by the Planning Policy and Consents Committee, acting under delegated authority of the Queenstown Lakes District Council, on 13 July 2000.

The subject site is contained within Part Lot 1 DP 10170 and Part Section 27 Block XIX, being 7.3542 hectares in area and contained in Certificate of Title 17C/967.

Appearances

Mr Warwick Goldsmith (Solicitor), Mr P Stevens (Architect), Ms R Lucas (Landscape Architect), Mr M Murphy and Mrs J Murphy were present at the hearing on behalf of the applicant. Mr Goldsmith presented submissions in support of the application and advised the Committee of a number of modifications to the original application from that lodged and notified in 1998. Mr Goldsmith canvassed the relevant provisions of the Transitional and Proposed District Plans and submitted that as the landscape classification under the Proposed Plan over this site is not yet resolved, relatively little weight could be placed on the objectives and policies of this plan.

Mr Murphy presented a written statement of evidence that outlined the extent of discussions that were held with the adjoining neighbour Mr Gavin Wills. It was the view of Mr Murphy that the proposed dwelling would have no impact on the privacy of the Wills residence.

Ms Lucas presented a written statement of evidence relating to the visibility of the site and proposed mitigation measure. Ms Lucas stated that the house would not be visible from the skyline, the proposed materials and colours would ensure the house easily assimilated into the surrounding tree cover and access batters will be planted with low visibility. Ms Lucas believed that the visual impact of the house would be minimal. Upon questioning, Ms Lucas stated that the site would in her opinion fall into the classification of a Visual Amenity Landscape in terms of the criteria used in the Environment Court Decision (C180/99).

Mr Stevens described some of the design concepts of the dwellings and answered a number of questions from the panel relating to the overall height of the structure and details of accessway formation.

Mr Ray Blake presented submissions on behalf of Mr G Wills and Ms M Castillo, in opposition to the application. Two witnesses were called in support of the Wills/Castillo submission, Mr Graeme Hastie and Mr Clive Geddes. Mr Blake submitted that the proposed dwelling is contrary to the objectives and policies of the Transitional and Proposed District Plan and would result in effects on the environment that are more than minor. Mr Hastie believed that the residents of Arthurs Point could place a great deal of faith in the extent of the residential zoning in this area and this restricted development within the adjoining the rural area.

Mr Geddes stated that the site is a high promontory, which overlooks the adjoining flat land. Mr Geddes believed that the height and width of the proposed dwelling would have a significant effect on the environment.

Considerations

Transitional District Plan

The property is zoned Tourist Development 2 in the Lakes-Queenstown Wakatipu Combined Transitional District Plan. The proposed dwelling is not specifically provided for within this zone and is a non-complying activity pursuant to Section 374(4) of the Resource Management Act 1991.

Proposed District Plan

This resource consent application was received on 3 August 1998, prior to Council issuing decision on submissions to the Proposed District Plan. Section 88A of the Resource Management Act 1991 requires an application received to be processed and completed as an application for the type of activity specified in the plan or proposed plan existing at the time the application was made. The plan that exists when the application is considered must be had regard to in accordance with Section 104 of the RMA.

The site is located within the Rural Downlands Zone of the Proposed District Plan (1995) and the proposal is a non-complying activity pursuant to Rule 5.5.3.4(i) for building within the area of landscape importance. The site is now located within the Rural General Zone of the

Proposed District Plan (1998) and the proposal is also a non-complying activity for the erection of more than one residential unit on a site of 7.35 hectares in area. The extent of proposed cut and batter slopes required for the formation of access to this site fail to comply with the earthwork standards of the Proposed District Plan.

Procedure

The application was publicly notified on Wednesday 18 November 1998 and the period for making submissions closed on 16 December 1998. A total of four submissions were received, three submissions were in opposition, and one in support.

After taking into account the interests of the applicant and submitters, the community and a duty to avoid unreasonable delay, the Committee resolved pursuant to Section 37 of the Resource Management Act 1991 to accept the late submission by Mr Gavin Wills and Maria Castillo.

The Committee noted that the submission by K & R Gousmett had been withdrawn.

Resource Management Act 1991

As the proposed activity is non-complying it was assessed in terms of Sections 104 and 105(2)(A) of the Resource Management Act 1991.

Under Section 105(2)(A) of the Resource Management Act 1991, the Council cannot grant consent for a non-complying activity unless it is satisfied that the adverse effects of the activity on the environment will be minor or granting consent will not be contrary to the policies and objectives of the plan or proposed plan.

Decision

It was resolved that the consent for the erection of a second dwelling and the formation of access to this house site be refused in terms of Sections 105(2A) of the Resource Management Act 1991.

Reasons for the Decision

One of the concerns raised in the Wills/Castillo submission related to a potential loss of privacy. There was considerable debate at the hearing over the actual extent of this effect and visibility of the proposed dwelling from below, and the Committee found that the lower flats were zoned Low Density Residential under the Proposed District Plan. Accordingly, the Committee were of the view that the privacy of the Wills/Castillo's could not be held in particular high regard when it is likely that this could be compromised by future development on this flat.

The evidence of the applicants showed the extent of excavation necessary to form access to the house site and the cross section and profile plans submitted by Mr Stevens were helpful for the Committee in understanding the effects of this part of the application. The Committee found that the location and quantity of excavation to the house site would lead to an accumulation of visual impacts generated by the development as a whole. The Committee was

of the view that the upper part of this excavated area was particularly visible and would lead to an adverse cumulative effect on landscape and amenity values.

The Committee noted that the application site is zone Rural General under the Proposed District Plan and adjoins a Low Density Residential Zone and is on a prominent hill slope. The landscape context of the site is one that is located within the foreground of a number of outstanding natural features and landscapes including Ben Lomond, Queenstown Hill, Cecil Peak and distant views across Lake Wakatipu through a corridor along Gorge Road. Whilst the site itself was found not to be outstanding in its own right, the Committee found that the hill is locally prominent and is an important component of the overall landscape values of this area.

The Committee considered the proposed dwelling to be of a scale and height that was inappropriate and would be visually obtrusive for this landscape. The impact of proposed mitigation measures were insufficient and the Committee were particularly mindful of the applicants stated intentions not to further reduce height or reduce the scale of the proposed dwelling. The Committee had to therefore consider the effect of the dwelling as it was put to them and it is in this regard that the Committee could not reconcile the adverse effects with any of the proposed mitigation measures or any redeeming positive effects.

Overall, the Committee found that the proposal would have an adverse effect on the environment that was more than minor.

The Committee agreed with the opinion of the Landscape Architect, Ms Lucas, that the site was a Visual Amenity Landscape in terms of the criteria and methodology set out in the Environment Court Decision on the Proposed District Plan relating to the District Wide Landscape and Amenity values (Ref: C180/99). Although the landscape classification under the plan for this site has yet to be resolved, the Committee found that they could rely on the expert opinion of Ms Lucas in this regard and that the relevant objectives and policies for assessment of landscape and amenity values were now beyond challenge. The Committee placed a significant amount of weight on the objectives and policies of the Proposed District Plan. The Committee did not accept the legal submissions of Mr Goldsmith that little weight should be given to these provisions.

In terms of the relevant District Wide objectives and policies, the Committee was of the view that the elevated nature of the site, coupled with the overall height and form of the dwelling would make it highly visible from public places. In particular, the Committee noted that the excavation necessary to achieve compliance with the Proposed District Plan resulted in the removal of the top of a hill that would accentuate the visibility of the structure from Atley Road and the Arthurs Point Road.

The principal mitigation measures put forward by the applicants related to landscaping on the house site and excavated areas, as well as the proposed colour scheme. The Committee found that the proposed dwelling would result in the removal of a number of existing trees and that the subsequent replanting of new species would not be as effective in mitigating the adverse effects of the proposal on landscape and amenity values.

In terms of the rural zone objectives and policies, the Committee concluded that the house was to be located on a prominent hill for the Arthurs Point area and that this would not protect the character and landscape values of this area. Overall, the Committee found that the

proposed would be contrary to the objectives and policies of the Transitional and Proposed District Plans.

The Committee found that the landscape values of this area were a significant natural resource for this area that had to be carefully managed to provide for the wellbeing of future generations. The adverse effects likely to result from the prominence of the site and scale of proposed building form were found to compromise the amenity values and quality of the environment. The application does not promote the sustainable management of natural and physical resource and is inconsistent with Part II of the Resource Management Act 1991.

For the above reasons, the Committee concluded that the application did not pass the threshold tests for the consideration of a non-complying activity under Section 105(2A) of the Resource Management Act and consent must be refused.

Other Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further money is required or whether a refund is owing to you.

Should you not be satisfied with the decision of the Council an appeal may be lodged with the Environment Court, Justice Department, P O Box 5027, Lambton Quay, Wellington not later than 15 working days from the date this decision is received.

This decision may be appealed by a submitter. You may check, after 15 working days if an appeal has been lodged by contacting the Environment Court, Justice Department on (04) 915 8300 or fax (04) 915 8303.

If you have any enquires please contact Chris Ferguson on phone (03) 442 4777.

Yours faithfully

J Edmonds
PRINCIPAL: RESOURCE MANAGEMENT

Decision No. C 20 /2001

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN **M J AND J A MURPHY**

(RMA: 625/00)

Appellant

AND **THE QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson (sitting alone under section 279 of the Act)

IN CHAMBERS at **CHRISTCHURCH**

RECORD OF DETERMINATION OF APPEAL

Background

[1] Mr and Mrs Murphy (“the appellant”) applied to the Queenstown Lakes District Council (“the Council”) under the Resource Management Act 1991 (“the Act”) for a land use resource consent to erect a residential dwelling on a site in the Rural General Zone containing 7550m². The legal description of the subject land is Part Lot 1 DP10170 and part Section 27 Block XIX Shotover Survey District and being part of the land described in Certificate of Title 17C/967.



[2] Access to the land was proposed to be taken across adjoining land owned by the appellant, then described as 9100m² being Part Lot 2 DP24549 and being part of the land described in Certificate of Title 16C/172. As a result of subdivision completed since the filing of the application, the latter land over which access was proposed is now described as 9148m² being Lot 1 DP27351 described in Certificate of Title 19A/557.

[3] The Council received three submissions with respect to the application, one supporting and two opposing the application. The Southern Public Health Service opposed the application to the extent that such opposition would be removed once they were satisfied that adequate provision was made for the sustainable supply of potable water and sewage treatment. G Wills and M Castillo opposed the application on the grounds that as adjoining landowners they were concerned as to loss of privacy.

[4] In a decision dated 18 July 2000, the Council resolved to refuse consent for the erection of a second dwelling and the formation of access to the dwelling as sought. The hearing committee of the Council found that the landscape values of this area were a significant natural resource for this area that had to be carefully managed to provide for the wellbeing of future generations. The adverse effects likely to result from the prominence of the site and scale of proposed building form were found to compromise the amenity values and quality of the environment. Thus, the hearing committee concluded that the application did not promote the sustainable management of natural and physical resources.



[5] On 10 August 2000 the Court received a notice of appeal from the appellant. The appeal seeks cancellation of the Council's decision refusing consent, and the granting of consent to the application.

[6] No persons have given notice that they wish to be heard on the appeal pursuant to section 271A or section 274 of the Act.

[7] The appellant has proposed amendments to the proposed activity comprising:

- (a) Relocation of the accessway off Lot 1 DP27351.
- (b) Reduction in the height of the house.
- (c) Construction of an earth berm across the lower part of the visible elevation of the house.
- (d) Maintenance of existing vegetation for screening purposes.

[8] On the above basis the Council determined that it is appropriate that consent be granted. On 2 February 2001 the Court received a memorandum of the parties ("the memorandum") signed by counsel for the Council and by counsel for the appellant. This set out a compromise manner in which the appeal, with the approval of the Court, might be determined by consent.

Orders

[9] Having considered the notice of appeal, the memorandum of consent and the Plans marked "A", "B" and "C", attached to and forming part of this decision, this Court, by consent, orders:

(1) RMA 625/00 is allowed to the extent set out in order (2) below.



(2) Under section 290(2) of the Resource Management Act 1991, a land use resource consent for the erection of a dwelling and the construction of an accessway is granted to M J and J A Murphy by the Queenstown Lakes District Council subject to the imposition of conditions as follows:

- (i) That the activity be undertaken in accordance with the plans and specifications lodged with the application (Ref : Site Plan dated 16.8.00 identified as SK-01 Revision b) subject to amendments detailed in attached Plan "A" dated 20 November 2000 identified as "SK – 05a" entitled "North Elevation Showing Existing Trees That Remain" and the further amendments required by the following conditions of consent.
- (ii) That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.
- (iii) That the consent holder shall pay to Civic Corporation Limited all required administrative charges fixed by the Council pursuant to Section 36 of the Act in relation to:
 - (a) The administration, monitoring and supervision of this consent; and
 - (b) Charges authorised by regulations.
- (iv) The consent holder shall pay to CivicCorp an initial fee of \$75 for the costs associated with the monitoring of this resource consent in accordance with Section 36 of the Act.



- (v) That upon completion of the proposed activity, the consent holder shall contact the Compliance section at CivicCorp to arrange a time for an inspection of the proposed work to ensure all conditions have been complied with. ✓
- (vi) All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:1981 with the amendments to that standard adopted on 1 June 1994, together with associated standards and Codes of Practice to meet the acceptance of the Queenstown Lakes District Council's Operations and Infrastructural Assets Manager. ✓
- (vii) Prior to the commencement of any works on the land being developed, the consent holder shall provide to the Queenstown Lakes District Council for approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate to detail the following engineering works required: ✓
- (a) The provision of a water supply adequate to supply the development. The system shall have a minimum supply of 1000 litres per day for the dwelling. Evidence is required that the water has been tested within the last 12 months and meets the bacteriological and chemical requirements of the Drinking Water Standards for New Zealand (1995). ✓
- (b) The provision of an on site effluent disposal system adequate to cater for the development designed by a suitably qualified engineer. ✓



NB: The consent holder shall only be entitled to dispose of effluent on site until such time as a reticulated connection to the Council's Arthur's Point sewage disposal system is available to the boundary of the property. If and when such reticulated connection is available to the boundary of the property the consent holder shall decommission the onsite disposal system and effluent disposal shall be to the Council's reticulated Arthur's Point system.

- (viii) That prior to the dwelling being inhabited, the consent holder shall:
 - (a) Complete all works specified in condition 12 above; and
 - (b) Pay to the Queenstown-Lakes District Council a headworks fees of \$2,486.00 for connection to the publicly reticulated sewerage system.
- (ix) Vehicle access to the proposed dwelling from Atley Road shall be by easement of right of way through the adjoining property so that the vehicle accessway approaches the proposed dwelling site from the south along the accessway approximately located and highlighted pink on attached Plan "B". Prior to the commencement of construction of any dwelling on the site the consent holder shall provide written evidence to the Council that the required easement of right of way has been granted.
- (x) The dwelling shall be constructed in accordance with the plans referred to in condition 6 above. In particular no part of the



dwelling (excluding chimneys) shall be higher than 5.5m above existing ground level as at the date of granting consent; and ✓

- (a) All roofs shall be constructed with pre-finished sheet metal coloured Grey Flannel or as otherwise approved by the Council. ✓
- (b) All external wall surfaces shall comprise either grey stone or paint finished textured solid plaster coloured mushroom/beige or as otherwise approved by the Council. ✓
- (xi) The consent holder shall construct and maintain at all times an earth berm between the dwelling and the top of the bank on the northern side of the building platform between the points marked "D" and "F" on attached Plan "C". That earth berm shall be constructed and maintained to a height 1 metre above the ground floor level of the dwelling from point "D" to point "E" and may then taper down to a minimum height of 500 mm above existing ground level at point "F". ✓


NB : Point "F" is that point on the top of the bank 6 metres southeast of the existing large tree closest to the northernmost point of the bank being the tree marked with a red cross on attached plan "C". ✓

- (xvi) The consent holder shall retain and maintain (including replanting if necessary) those existing larch trees identified on attached Plan "C". Those trees shall not be pruned to any extent that would compromise the ability of the trees to act as an effective screen. ✓

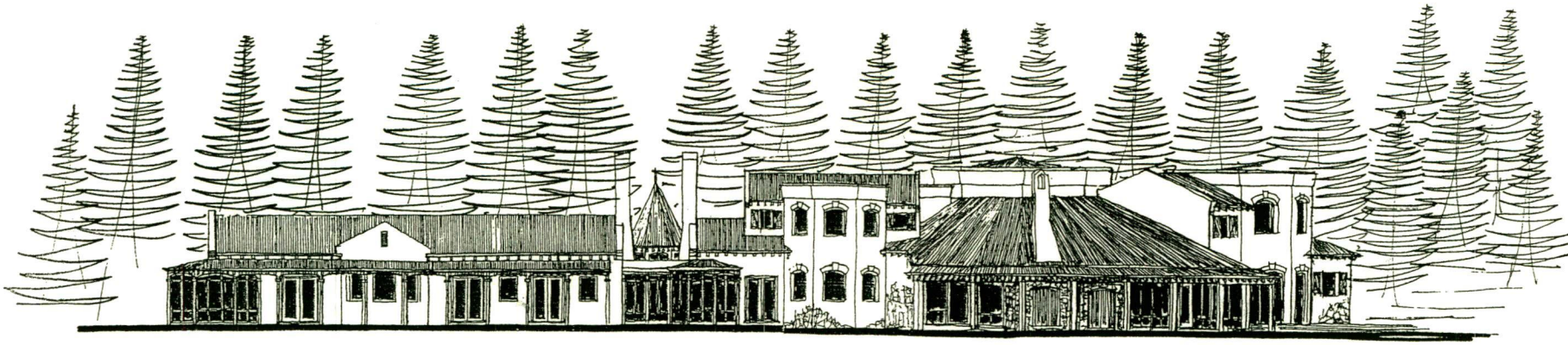


(3) There is no order as to costs.

DATED at CHRISTCHURCH this 26th day of February 2001.


J R Jackson
Environment Judge





NORTH ELEVATION



NORTH ELEVATION
EXISTING TREES THAT
REMAIN

INZI Ltd.
2nd Floor, O'Connell Centre
Cnr Beach & Camp St
Queenstown
P O Box 721
Queenstown
Telephone: 03 31 442 5960
Facsimile: 03 31 442 5961
Mobile: 02 31 762 415
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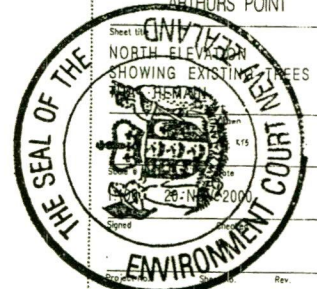
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dimensions, levels of boundaries on the site plan
providing they are shown on the site plan
providing a Certificate of Title for the property is available.
Erby Mazlin INZI Ltd

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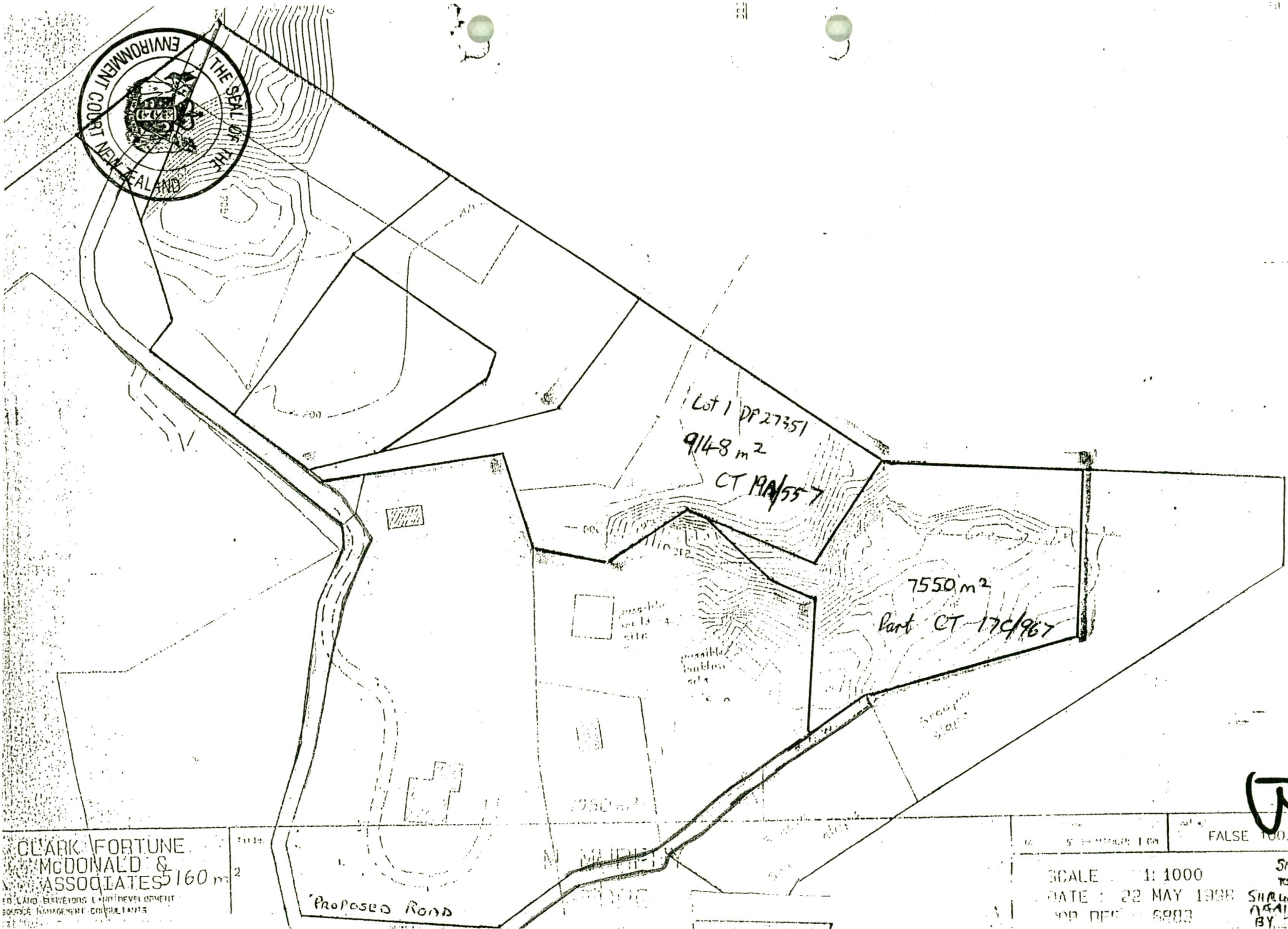
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| 20/11/00 | | ISSUE FOR RESOURCE CONSENT |
| Revision No: | Date: | Detail: |
| Client: | | |

MR & MRS M MURPHY

Project
PROPOSED DWELLING
ATLEY ROAD
ARTHURS POINT



Sheet to
NORTH ELEVATION
SHOWING EXISTING TREES



CLARK FORTUNE
MCDONALD &
ASSOCIATES
ENGINEERS SURVEYORS LAND DEVELOPMENT
SOURCE MANAGEMENT CONSULTANTS

160 m²

Proposed Road

SCALE 1:1000
DATE 22 MAY 1988
SHEET NO 8003

FALSE 100.00

SHRINK TO 82
SHRINK AGAIN BY 11%

B



2nd Floor, O'Connell's Centre
 Cnr Beach & Camp St
 Dunedin
 P.O. Box 741
 Dunedin
 Telephone: (03) 442 5960
 Facsimile: (03) 442 5961
 Mobile: (021) 782 418
 Email: dam@dm.com.nz

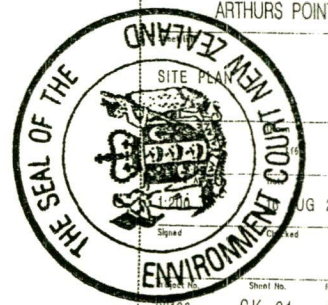
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| | | |
|---------------|---|----------|
| 15/06/00 | POOL AND TOWER REMOVED & DRIVEWAY REACHED | |
| 15/05/00 | ISSUE FOR RESOURCE CONSENT | |
| Residence No: | Date: | Details: |

Client: **MR & MRS M MURPHY**
 Project: **PROPOSED DWELLING ATLEY ROAD ARTHURS POINT**



Key:
 Top of Bank
 Existing trees to remain

Sunday, **18 September 2022**

Stoush over tree felling in Queenstown

By **Philip Chandler** (/author/scoop%40scene.co.nz)

Regions (/regions) > Queenstown (/regions/queenstown)



Gertrude's Saddlery land, to the left, where up to three hectares of wilding trees were felled recently. Photos: Mountain Scene

A stoush has broken out over the legality of a massive tree-felling operation at Queenstown's Arthurs Point, directly above the Shotover River, last weekend.

Andrew Fairfax, whose company Gertrude's Saddlery is proposing a housing development on the land, says contractors legally felled two to three hectares of wilding pines on his privately owned, rural-zoned land.

It was a permitted activity under the district plan, he claims, and was necessary because many trees were in an unsafe condition following winter storms.

A proposed 'outstanding natural landscape' (ONL) designation on the property doesn't introduce any requirements for consent to be obtained for felling activity, he says.

"Whatever zoning decisions are made, the wilding pines needed to come down.

"As a long-term local resident, I'm doing right by the land and the community in terms of immediate ecological benefits."

However, Tom Dery, who owns property directly across the river and chairs the Arthurs Point Outstanding Natural Landscape Society (APONLS), says Fairfax "claims to everyone he's just doing it because he's a farmer and wants to clear some land, in spite of the fact he has put in a proposal for development of some 74 houses, all of which is going

to a hearing in November".

Objector: A case of 'cut now, sorry later'

"He was not doing it so he could put more cattle on the land.

"He's saying he had approval to do all that, but clearly he didn't, he needs to have a formal approval given the purpose of felling the trees was really for residential development, and he's already had a request in to do that residential development.

"As far as we are concerned, this is a case of 'cut down now, say sorry later'."



Landowner Andrew Fairfax says the felling was legal.

Fairfax says immediate neighbours were notified, and specialist machinery ensured the trees were felled with minimal noise or disruption.

He points out council officers visited the site and were satisfied the felling was a permitted activity.

Dery, however, begs to differ — "the officers were [allegedly] told by the lawyers that were onsite waiting for them they had the right, and the council officers weren't in a position to challenge or question it".

A council spokesperson confirms staff visited the site, along with regional council reps.

"At this time, QLDC has not determined non-compliance with this activity under the district plan, therefore, a cease works notice has not been issued.

"We will continue to work through this matter and keep the concerned parties updated."

Dery, meanwhile, also finds it interesting security guards were employed to stop people even getting close.

"And why on a Sunday was this happening, when the costs clearly are very high?"

Fairfax says access was restricted for health and safety reasons, due to the hazardous nature of the felling operation.

He adds: "Under rules applicable to our land, there are no restrictions on felling trees at the weekend or any other day of the year.

"The timing of the felling operation and methods used were due to availability of machinery and manpower."

Fairfax maintains responsible landowners cut down wilding pines every day, "because invasive pest species of trees need to be controlled, not cherished".

APONLS treasurer Matt Semple, however, says landscape architects consider these trees add to the character of the area, especially given its ONL attributes.

He also argues these larches aren't the ones causing the spread of wilding pines compared to those higher up.

Fairfax, meanwhile, says he'll soon release a masterplan for his land, in which extensive work has gone in to providing community amenities for walking and biking.

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[\(http://adsender.alliedpress.co.nz\)](http://adsender.alliedpress.co.nz)

[Advertising Terms \(/advertising-terms\)](/advertising-terms)

[Advertise with us \(/advertise\)](/advertise)

Services

Home & Leisure Show

(<http://www.homeandleisureshow.co.nz/>)

Allied Productions (<http://www.alliedproductions.co.nz/>)

ODT Journeys (<https://www.journeys.odt.nz/>)

ODT Store (<https://odtshop.co.nz/>)

Otago Images

(<https://odtshop.co.nz/collections/photography/products/print>) ([https://issuu.com/alliedpress/docs/explore_dunedin_2021-](https://issuu.com/alliedpress/docs/explore_dunedin_2021-22_issue)

Corporate Logos (</allied-press-corporate-logos>)

ODT Print (<http://www.odtprint.co.nz/>)

Magazines

Classic Driver (<https://odtshop.co.nz/products/classic-driver-magazine>)

Dunedin Guide (<http://dunedinguide.co.nz/#folio=1>)

Drivesouth Best Motor Buys

(<https://starmedia.kiwi/magazines/drivesouth/>)

Explore Dunedin

([https://issuu.com/alliedpress/docs/explore_dunedin_2021-](https://issuu.com/alliedpress/docs/explore_dunedin_2021-22_issue)

Home & Leisure (<https://starmedia.kiwi/magazines/home-leisure/>)

Kiwi Gardener (<https://starmedia.kiwi/magazines/kiwi-gardener/>)

Kiwi Gardener Quarterly

(<https://starmedia.kiwi/magazines/kiwi-gardener/>)

Rugby News (<https://starmedia.kiwi/magazines/rugby-news/>)

South (<https://www.southmagnz.co.nz/>)

Style (<https://starmedia.kiwi/magazines/style/>)

With this Ring (<https://starmedia.kiwi/magazines/with-this-ring/>)