

Before the Hearings Panel For the Queenstown Lakes Proposed District Plan

In the matter Of the Resource Management Act 1991

And

In the matter Of submissions and further submissions on Hearing
Stream 12 – Upper Clutha Mapping Annotations
and Rezoning Requests

**STATEMENT OF EVIDENCE OF DEAN MICHAEL CHRYSTAL
ON BEHALF OF MIKE BERESFORD (SUBMITTER 149)**

DATED: 4 APRIL 2017

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Introduction

- 1 My name is Dean Michael Chrystal. I am a Director with Planz Consultants Limited, a planning consultancy based in Christchurch.
- 2 I have been asked by Mr Michael Beresford (**Mr Beresford**) to provide evidence in support of his submission on the Proposed Queenstown Lakes District Plan ('Proposed Plan'). Mr Beresford's submission seeks rezoning of the existing site known as Section 2 Blk XIV SECT 5 Lower Wanaka SD (CT OT18C/473) and referred to as 'Sticky Forest'. The site has been zoned 'Rural' in the Proposed Plan, as shown on Planning Maps 19 and 20, is planted in forestry and contains numerous mountain bike trails used by the general public.
- 3 In preparing my evidence I have reviewed:
 - The relevant Operative Plan provisions;
 - The relevant Proposed Plan provisions;
 - The National Policy Statement on Urban Development Capacity;
 - The proposed Otago Regional Policy Statement; and
 - The Council s42 report.
- 4 I have also read and rely upon the evidence of Mr Beresford, Mr Copeland, Ms Hampson, Mr Greenaway, Mr McCartney, Mr Metherell and Mr Field. I do not intend to repeat their evidence but simply reference them in relation to matter I address.

Qualifications and Experience

- 5 I hold a Bachelor of Regional Planning degree and am an accredited Commissioner. I have been employed in the practice of Planning and Resource Management for over 25 years, both in New Zealand and the United Kingdom.
- 6 I have previously worked for local authorities in Wellington and the UK before joining Christchurch City Council in 1994. In 1998 I left the Council to become a Director at Planit Associates (now Planz Consultants).
- 7 My experience includes the policy and rule development for the commercial and retail provisions contained in the former Christchurch City Plan while working for the Council. I also had a leading role in the preparation of Variation 86 to the Christchurch City Plan which introduced a centres based approach to retailing in Christchurch. I was then involved in preparing and presenting evidence at both the Christchurch City Council hearing and subsequent Environment Court appeals on the Variation 86.

- 8 In more recent year I have been heavily involved in the Independent Hearing Panel process for the replacement Christchurch City Plan including providing expert evidence for Fulton Hogan on a deferred zoning approach to a proposal to swap the Templeton Golf Course and the Pound Road quarry. More recently I have been involved in preparing a large scale plan change which seeks to rezone travellers' accommodation land to residential land in Tekapo.
- 9 As a Commissioner my experience includes hearing and deciding on numerous plan changes and resource consent application around the country and I have being involved in Panel's specifically on the district plan reviews of Selwyn and Horowhenua District Councils.
- 10 While this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (updated 1 December 2014) and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

- 11 In my evidence I:
- 11.1 Describe the existing environment, current zoning and history of urban development in the surrounding area;
 - 11.2 Outline the proposed provisions in the notified plan;
 - 11.3 Discuss potential landuse under the proposed plan;
 - 11.4 Outline the proposed amendments now sought;
 - 11.5 Assess the relevant effects;
 - 11.6 Undertake a statutory assessment including under Section 32 of the Resource Management Act (RMA); and
 - 11.7 Provide my conclusions.

Executive summary

- 12 The Sticky Forest land is currently held by the Crown on trust for (more than 1000) descendants (the beneficial owners) of the 57 original intended owners. It is effectively therefore private land. Original descendants of the beneficial owners were to have had land transferred to them in settlement of a claim under the South Island Landless Natives Act 1906 (**SILNA**). SILNA was intended to provide for Maori in the South Island left with insufficient land for their economic support and maintenance following Crown purchases in the mid-19th century.

- 13 Sticky Forest site is currently planted primarily in Pinus radiata and Douglas fir trees and is some 50.7ha. The site is zoned Rural in the Operative and Proposed Plans, however the Proposed Plan introduces an Outstanding Natural Landscape (ONL) overlay to approximately half the site at the northern end and makes the planting of Pinus radiata and Douglas fir a prohibited activity.
- 14 From an economic productive point of view the site has limited potential with the Proposed Plan provisions only further limiting that potential. This is an important consideration when weighed against the purpose this land was intended for in terms of the beneficial owners.
- 15 The submission lodged on behalf of Mr Beresford has been refined with the proposal being for some 20ha of the 50.7ha to be rezoned of residential purposes split between Residential Low Density (RLD) and Large Lot Residential (LLR). The remainder of the land approximately 30ha would be retained for recreational purposes and includes a significant part of the mountain bike trails. The proposal includes a redrawing of the proposed ONL boundary and specific objectives, policies and rules requiring a process of ensuring that a number of significant matters are addressed prior to consent for subdivision being able to be obtained.
- 16 The background and context of this proposal are unusual if not unique in terms of planning outcomes. In terms of the RMA the proposal involves consideration of section 6, section 7 and section 8 matters and ultimately and importantly an overall judgement in terms of section 5. Within this framework there are in my opinion competing interests and conflicts between landscape values and the economic and recreational values.
- 17 As set out in the detailed s.32 assessment attached as Appendix 2 to my evidence, the rezoning and rules proposed are considered to be a more efficient and effective method of achieving sustainable management than the provisions in the Proposed Plan.
- 18 While I accept that landscape values are important in this instance I consider the resulting benefits both for the beneficial owners in economic terms and the community in recreational terms outweigh the relatively moderate landscape effects.
- 19 In my opinion the economic wellbeing of the beneficial owners and community wellbeing which is captured in section 5 of the RMA outweighs the landscape values now being proposed in relation to section 6.
- 20 The proposed planning regime in my opinion delivers a balanced outcome in terms of landscape and amenity values and also provides significantly for both economic and community wellbeing in the form of guaranteeing the economic wellbeing for the beneficial owners and future recreational access. At the same time the proposal will help in addressing a broader treaty matter (or indeed grievance) which has been outstanding for over 100 years.

- 21 If the Hearings Panel were unable to support the rezoning then my position would be for the ONL to be removed from the site in its entirety. The beneficial owners primary fall-back position is to retain, harvest and replant the forestry on the site and consenting this under the situation of an ONL overlay would in my opinion be difficult and create a high level of uncertainty for the owners. While I accept that landscape values are very important in this particular context where, as discussed, the purpose of the land is to provide for the economic wellbeing of the beneficial owners I do not consider having the tight constraints imposed by an ONL would be appropriate.

Introduction

- 22 I have read the s42A (of the RMA) report and associated technical reports produced on behalf of Queenstown Lake District Council associated with Sticky Forest and fully understand the reasoning for rejecting Mr Beresford's submission. There was little information to go on and the submission sought the rezoning of the whole site.
- 23 As can be now seen what is being sought has been significantly informed by detailed technical input and the scope of the proposed rezoned area significantly modified as a result.
- 24 The background to the submission is that the Sticky Forest land is currently held by the Crown on trust for (more than 1000) descendants (the beneficial owners) of the 57 original intended owners. Original descendants of the beneficial owners were to have had land transferred to them in settlement of a claim under the South Island Landless Natives Act 1906 (**SILNA**). SILNA was intended to provide for Maori in the South Island left with insufficient land for their economic support and maintenance following Crown purchases in the mid-19th century.
- 25 Following the 1909 repeal of SILNA, there remained four blocks of land for which ownership had not been finalised. The Hawea-Wanaka block was one of those land blocks and it was not until the Ngai Tahu Settlement Deed (the Deed) was finalised in 1996 that the first steps in providing for that redress commenced in earnest. However, by that stage, the Crown was no longer in a position to include the Hawea-Wanaka land in the settlement redress: the land had by that time been alienated by the Crown under a pastoral lease to a third party. That original Hawea-Wanaka block is described as "The Neck" and is an area of 671 hectares located between Lakes Wānaka and Hāwea approximately 40 km by road north of Sticky Forest. The Neck land is zoned Rural and is contained within an ONL.
- 26 Also around that time began a further long and arduous task involving identification of the descendants of the 57 original owners. In the case of the Hawea-Wanaka block, this process did not finish until November 2010, some 10 years after it commenced. Not all have been located.
- 27 The Deed (and more particularly, the Ngai Tahu Settlement Act 1998) provided for the alienation of the Sticky Forest land in substitute for the original block of land on the basis that it was of similar land area and value and was situated in close proximity to the original block. For reasons that are

not at this point apparent a subsequent subdivision of the Sticky Forest Block in preparation for transfer to the beneficiaries from the adjoining Kirimoko block (which was later sold and is now being developed) did not provide for legal access and has effectively landlocked the Sticky Forest site. Investigation into how this occurred and what redress can be provided are currently ongoing.

Existing Environment, Zoning and History

- 28 As has been described by others the Sticky Forest site is currently planted primarily in *Pinus radiata* and Douglas fir trees. The site itself is 50.7ha and the forestry occupies around 40.1ha. The *Pinus radiata* are towards the lake end of the site and the Douglas firs are towards the southern end of the site and were thinned in 2009. Aerial photos contained in the Preliminary Site Investigation report¹ suggest that the age of the Douglas firs varies. The majority of the trees will not be ready to be harvested until 2032 – 2042, however some of the *Pinus radiata* block is now ready for harvest.
- 29 The zoning of the site in the Operative Plan is Rural General and it makes up the larger proportion of an isolated pocket of Rural General zoning in this location. There is no ONL classification currently on the site. This current rural zoning is now essentially surrounded by urban zoning as shown in Figure 1 below.

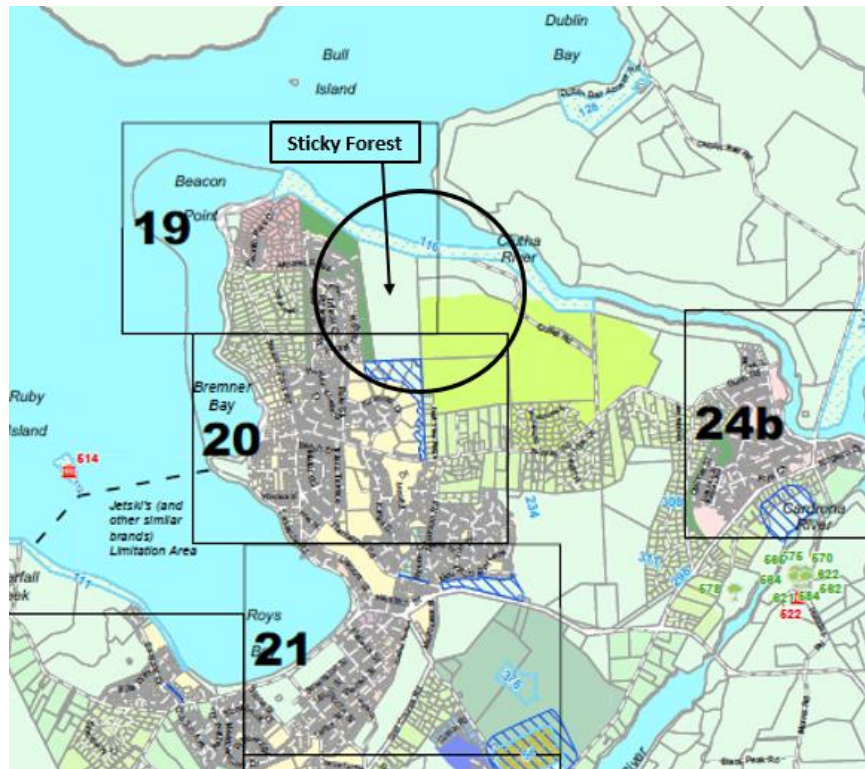


Figure 1

¹ This report is available to Council should it be required

- 30 The site was historically part of Wanaka Station and was likely to have been covered with manuka up until 1945 according to historic survey plans. The site is likely to have been exposed to farming activity from 1945 onwards in the form of grazing. In 1953 the land became a plantation reserve with forestry being planted from the late 1980's owned by the Council's predecessor. In February 2000, the land was acquired by the Crown for the purpose of the settlement redress and plantation reserve status was revoked under the Ngai Tahu Claims Settlement Act 1998. The land is currently administered by the Office of Treaty Settlements (OTS). OTS have engaged a private company PF Olsen to manage the forest.
- 31 The geography of the site varies. There are steep slopes to the north and along the western boundary and more moderate slopes to the east and south intermingled with flat areas of land primarily through the centre of the site.
- 32 As referred to above the site has no legal road access, however pedestrian access is available through neighbouring public reserve land or via private roads that border the property. Mountain bike trails traverse the block with the largest concentration at the northern end around the steeper slopes. The trails are popular with locals and tourists and the Bike Wanaka organisation hosts annual cycle races on the block.
- 33 Under the Operative Plan harvesting of the forestry requires a fully discretionary consent where a number of matters are to be taken into account, including traffic generation, disposal of hazardous waste and substances; production of noise and odour; and associated earthworks, and potential effects on water quality. The planting of forestry is also a fully discretionary consent where a further greater array of matters are to be considered. Further, the Site Standards restrict the planting of both *Pinus radiata* and Douglas fir the two species currently on the site.
- 34 The development of a residential dwelling or other building and associated roading, landscaping and earthworks is also a fully discretionary activity under the Operative Plan.
- 35 At the time the Deed was finalised and up until the mid-2000's the site was surrounded by rural zoned land on all sides. In 2002 the Council began a major strategic planning exercise for Wanaka entitled Wanaka 2020. This resulted in subsequent Plan Changes for the Kirimoko Block to the south and Peninsula Bay land to the west in 2007 and 2005 respectively. More recently the Northlake Plan Change on the eastern side was notified in 2013. In the wider context Sticky Forest is now surrounded by urban development on three sides and the lake on the fourth. Immediately adjoining it however open space and no build areas have been created to act as buffers to the forest.
- 36 It is interesting to note that the Wanaka Structure Plan - Report for Adoption of Wanaka Structure Plan November 2004 – June 2006 identified Sticky Forest as being a part of the fourth phase of the development of Wanaka alongside Northlake as shown in Figure 2 below:

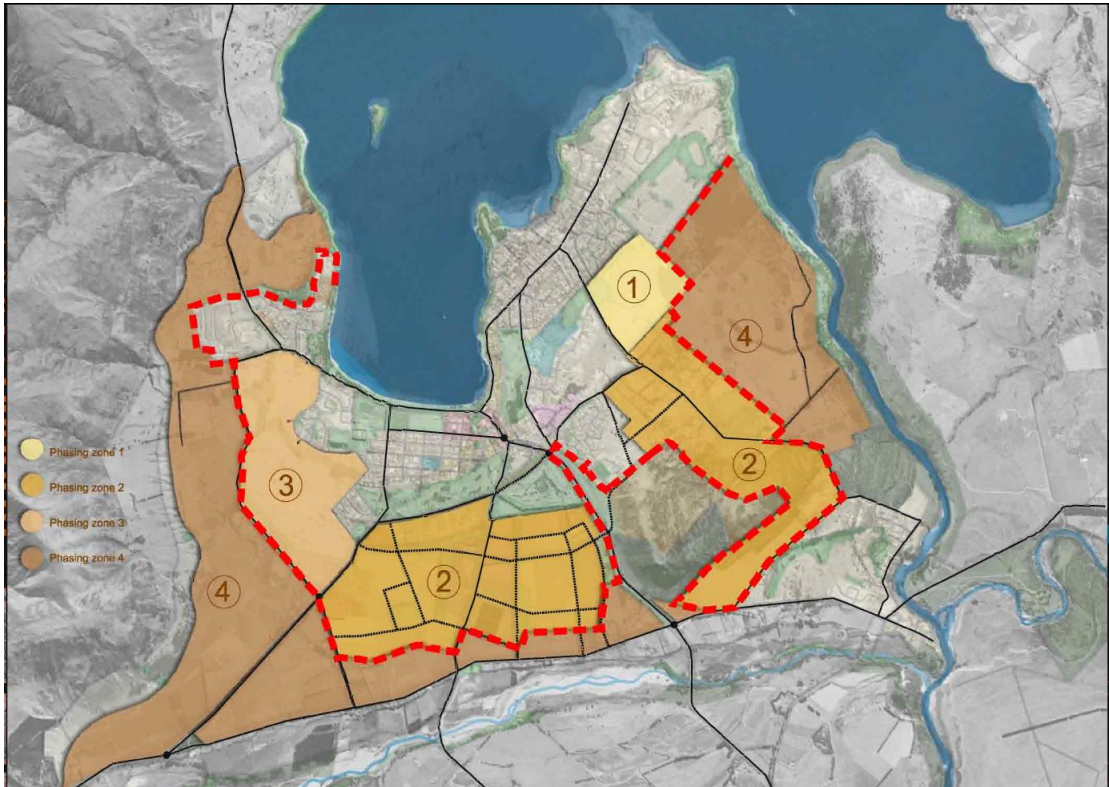


Figure 2

37 The Final Wanaka Structure Plan from the same document (Figure 3 below) diagrammatically identified the northern part of Sticky Forest as “Suggested Open Space for Future Urban Land”, and indicated it was inside the Proposed Outer (long term) Growth Boundary and not part of an ONL.

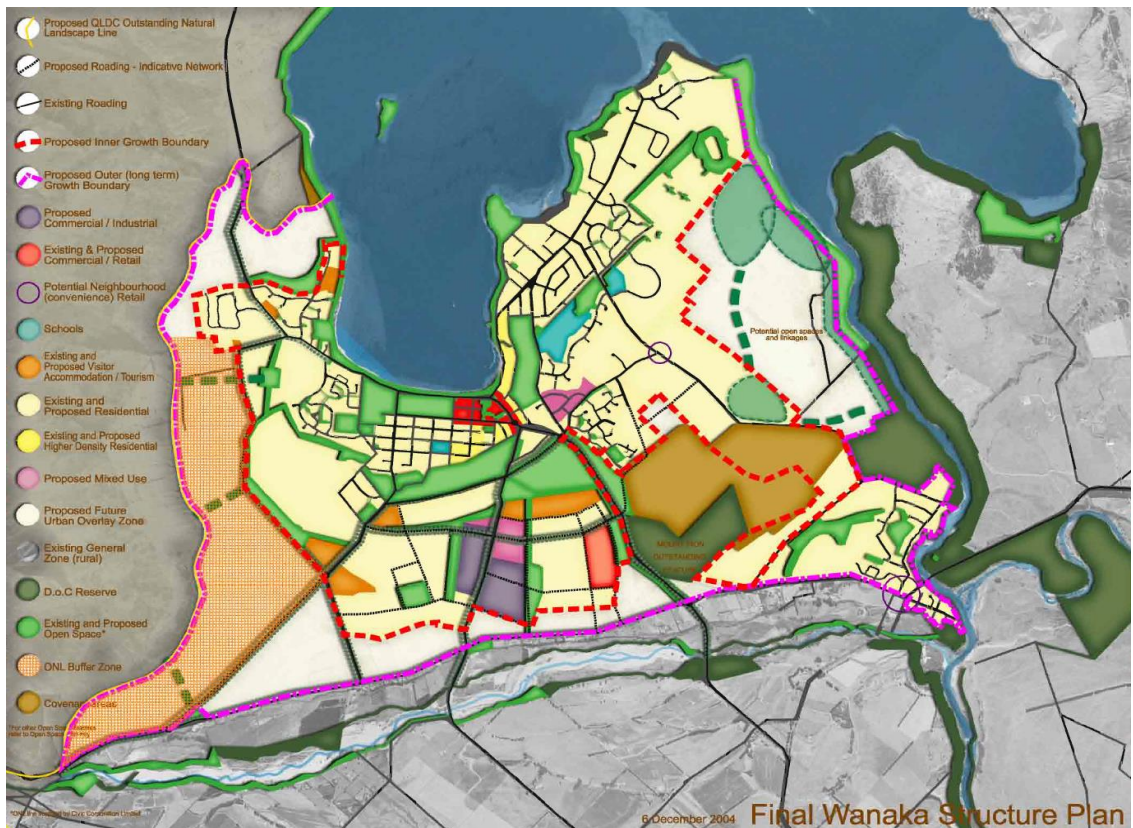


Figure 3

- 38 Notwithstanding the above, the adopted Wanaka Structure Plan Review, shown in Figure 4 below, identifies 'Plantation Forest' (Sticky Forest) as a potential landscape protection area which it states *"highlights the landscape sensitivity of this area as well as its potential to contribute to open space and recreation networks"*. I have been unable to determine why this change occurred.

Structure Plan Map – Proposed Zoning

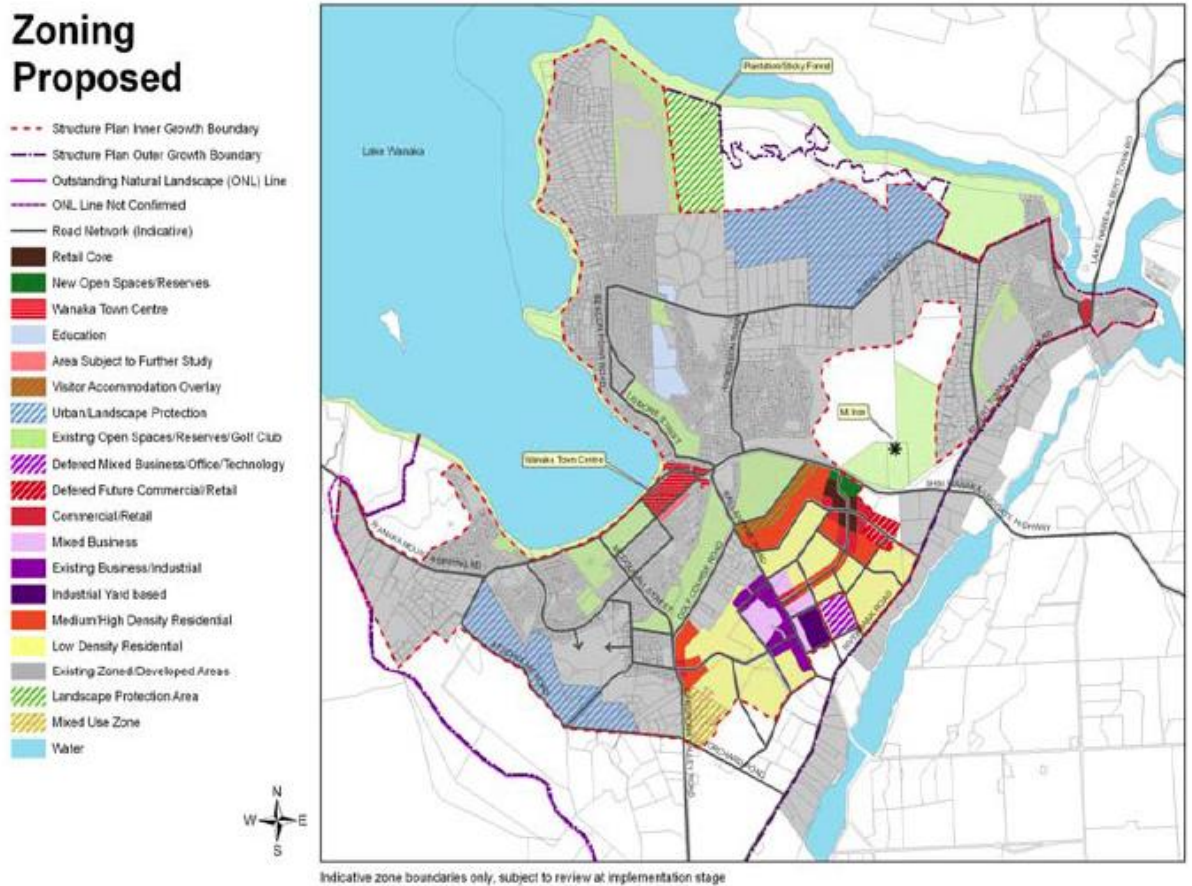


Figure 4

Proposed District Plan

- 39 The proposed plan essentially continues the status quo of rural zoning of the Sticky Forest site but adds additional layers of regulation in terms of an ONL over approximately half the site at the northern end and a Rural Landscape Character (RLC) over the other half.
- 40 The activity of forestry (which includes both harvesting and planting) remains a fully discretionary activity in rural landscapes, albeit that replanting with *Pinus radiata* and Douglas fir, amongst other species, is prohibited. Objective 21.2.9 seeks to ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities. Associated Policies 21.2.9.3, 21.2.9.4 and 21.2.9.5 encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, and ensure forestry does not degrade the landscape character or visual amenity values of the Rural Landscape;

seek to ensure forestry harvesting avoids adverse effects with regards to siltation and erosion and sites are rehabilitated to minimise runoff, erosion and effects on landscape values; and limit forestry to species that do not have any potential to spread and naturalise. [emphasis added]

- 41 One residential unit is permitted within any building platform approved by resource consent. The obtaining of a building platform is a fully discretionary activity. Recreational and farming based activities are permitted in the Rural Zone subject to meeting relevant performance standards.
- 42 Of particular relevance in relation to both forestry and building platforms are clauses 21.7.1, 21.7.2 and 21.7.3 which are assessment matters relating to landscape (see **Appendix 3**). Clause 21.7.1 appears to apply to activities requiring consent within an ONL. The clause begins:

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone:

21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases. [Emphasis added]

Land Use Options

- 43 Taking into account the purpose for which Sticky Forest was provided as outlined by Mr Beresford as being 'economic benefit and sustenance' to landless' descendants, and noting the present location and surroundings of the site as described above, I have considered the potential land use options under the proposed zoning regime. For reasons of the size of the block, its geography and the existing forestry use and the likely costs of its remediation for another use, I consider in reality any economic use or return is essentially limited to a continuation of forestry, rural lifestyle block subdivision or some form of commercial recreation development akin to the newly established Christchurch Adventure Park. I have not considered sale of the land for reserve as this requires a decision from a third party namely the Council and as I understand it there is no commitment from the Council in this regard.

Forestry

- 44 As described above a forestry plantation is already well established on the site. I have discussed the forest with Mr George Platt of PF Olsen, a forestry management company who have had responsibility for maintaining Sticky Forest, and I understand that some parts of the forest are virtually ready for harvest.
- 45 As referred to the status of forestry in the proposed plan is fully discretionary. That would seem to mean that any harvesting would require resource consent as would replanting. I also note that the proposed plan sets itself totally against the two species which are currently planted on the site.

Planting of both *Pinus radiata* and Douglas fir is a prohibited activity in the proposed plan. These species make up 95% of New Zealand's exotic plantation forests.

- 46 Future harvesting and replanting of the forest will rely in particular on being able to satisfy the exceptional circumstances test in Clause 21.7.1 (see Appendix 3) within the ONL which represents close to half the site. In my opinion this is an extremely high test to pass and therefore the ability to harvest and in particular to continue forestry on this part of the site should the ONL line be confirmed is by no means guaranteed. While I could foresee a reasonable case being made for consent to harvest the existing trees on the basis that they are already in place (although this could still be frustrated by conditions) in my opinion the prospect of obtaining consent to replant for commercial use in the ONL is very uncertain.
- 47 Even on the remainder of the site consenting may still prove difficult or become embroiled in compromises to the extent that it becomes uneconomic given the relatively small area involved.
- 48 All of this also assumes that a new commercial species, being either native or exotic, can be found which grows sufficiently on the site and is a viable proposition.
- 49 In addition to the above there are other issues for forestry's continuation and knock on effects for the ongoing recreational use of the site.
- 50 There is some, albeit limited, prospect of reverse sensitivity effects given that the site is now in close proximity to residential development on its western and southern sides and there is the growing development of the Northlake subdivision on its eastern side. My discussions with Mr Platt found that the forest would take 3-4 months to harvest with its associated noise and truck movements (around 10 per day). In my view the limited period involved would mean even if there were complaints the effects will be short-term.
- 51 Harvesting of the forest, if consent were able to be obtained, would inevitably involve some major earthworks for road access, laydown areas and skid site construction. Mr Platt's view was that with this and the associated harvesting itself, the existing bike trails would be destroyed and that there was no avoiding this. What would follow would be a period of root raking and harvesting slash into windrows with a tracked excavator which would be followed by replanting. Due to the harvesting and the subsequent need to enable tree establishment and associated pest control Mr Platt said they would recommend there be no public access for at least 3 years.
- 52 All this leads me to conclude that under the current proposed plan provisions ongoing forestry as a source of income for the beneficial owners is very uncertain even if it was economically viable. Further, the recreational values currently associated with the site would be lost for an extended period of time and even if they were returned would take many years to achieve the same values as presently exists.

Rural lifestyle block subdivision

- 53 Development of a rural lifestyle block subdivision of say 4ha blocks is possible under the proposed plan but again it is a fully discretionary activity and subject to the same landscape assessment referred to above and detailed in Appendix 3. In my opinion the ability to obtain consent for any building platform for residential development in the ONL area would be extremely difficult. This would leave the scenario of seeking such consent within the RLC area and given the nature of the landscape assessment matters likely having to offer some of the ONL area as a form of environmental compensation which would reduce the number of titles that could be created.
- 54 I accept that in theory this is a potential use of the site however, whether the economics of removing trees, creating accesses and the provision of services to this location for such a limited number of sections is viable is uncertain. Further, it is likely to result in a large area of the current recreational values being lost as much of the site would be retained in private ownership.

Commercial Recreational Development

- 55 A commercial recreational development akin the Christchurch Adventure Park may be possible. Such a proposal would remove the freedom of access currently enjoyed and would necessitate a form of payment to access the site. It might however result in improved facilities and new activities which may benefit the wider community and encourage tourism. Again for the reasons already outlined consenting may prove difficult in relation to both the activity, works associated with it and any structures.
- 56 Overall therefore from an economic productive point of view the site, has limited potential with the proposed plan provisions only further limiting that potential. In my opinion this is an important consideration when weighed against the purpose this land was intended for in terms of the beneficial owners. Having read through the proposed rules associated with the Rural zone I consider there are few opportunities for future economic development, including forestry, on the site given its size and location. Certainly those that present themselves, such as a continuation of forestry or a very limited number of 'lifestyle blocks with building platforms', even if consent were able to be obtained, would in all likelihood result in the loss of the existing recreational values.

Proposed Amendments to the Proposed District Plan

- 57 The submission lodged on behalf of Mr Beresford has now been refined. In short the proposal is for some 20ha of the 50ha to be rezoned of residential purposes split between Residential Low Density (RLD) and Large Lot Residential (LLR). The remainder of the land approximately 31ha would be retained for recreational purposes and includes a significant part of the existing mountain bike trails.

- 58 The proposal includes a redrawing of the proposed ONL boundary and the inclusion of a two residential zone approach to address particular landscape effects along the upper slopes of the site. These matters are discussed later in my evidence.
- 59 Details of the amendments proposed are set out in **Appendix 1** and an associated assessment in terms of s32 of the RMA is set out in **Appendix 2**. The s.32 assessment attached to my evidence considers the benefits of the proposal, along with the associated costs, and then compares their efficiency and effectiveness in achieving the relevant provisions already decided and as notified by the Council.
- 60 The specific objectives, policies and rules proposed involve a process of ensuring that a number of significant matters are addressed prior to consent for subdivision being able to be obtained. These include:
- a. securing the provision of public cycle and pedestrian access to the Rural zoned area and the potential retention of forestry within this area through an appropriately structured mechanism which might include vesting in Council for reserve purposes, a community trust or easements created via a subdivision consent; and
 - b. the preparation of a Structure Plan approved by the Council which addresses road access and internal roading layout; pedestrian and cycling connections through the subdivision; methods of servicing by infrastructure; and the extent of any specific building controls necessary to manage landscape effects, including the need for building platforms to be identified within the Large Lot Residential Zone.

Assessment of effects

Recreation

- 61 As described by Mr Greenaway, Sticky Forest contains significant recreational values primarily in the form of mountain bike trails. However, there is no present guarantee under the current planning framework, given the forthcoming change in ownership, that these will be able to be retained. In that context as referred to in the section 32 assessment a loss of existing recreational values could conceivably be anticipated.
- 62 The proposed planning regime however would guarantee the retention of a significant amount of those recreational values for the community going forward and would enable, if desired, further investment in recreation activities. As discussed by Mr Copeland there is an associated economic benefit here given the renowned status of the mountain bike facilities on the site.

Landscape

- 63 Mr Field has undertaken a detail assessment of the landscape values and visibility of the site. There is little doubt given the site's elevation that it is clearly visible as a patch of forestry blanketing a range of landform variations defined by soft and hard ridgelines. Based on the forestry being removed these areas vary in degrees of visibility and sensitivity to landscape change. Mr Field has sought to refine the proposed ONL line in the proposed plan using more detailed analysis but notes that more detailed revision could be provided with more accurate contour information.
- 64 Notwithstanding, Mr Field's analysis the ONL line now proposed excludes some land which is inside Mr Fields proposed ONL line as shown on his Figure 13 graphic. While Mr Field does not particularly support this I note that this land, which incorporates some areas of low visibility, is relatively flat and potentially developable. It would also under the proposed amendments in Appendix 1 be surrounded by the residual Rural zone within which the existing trees would be retained. The retention of these trees alongside the design requirements of the Structure Plan and LLR density and rules will mean that the visibility of buildings within this area will be limited. The impact of features of the ONL being lost as a result are discussed below under my Part 2 considerations.

Urban Form

- 65 The present Urban Growth Boundary (UGB) surrounds Sticky Forest on three sides. Therefore on the face of it the inclusion of a part Sticky Forest within the UGB would seem logical. In other words it effectively adjoins the urban edge and is not distant from it.
- 66 Added to this the site is in relatively close proximity to the town centre, other employment areas, schools, services and the as yet to be developed small commercial centre which is part of the Northlake subdivision. Subdivision of the site would add to the viability of that centre.
- 67 As has been noted by Ms Hampson the addition of further residential land will promote better housing affordability, increase competition and help maintain the long term capacity buffer required by the National Policy Statement Urban Development Capacity.

Servicing, Geotech and Contamination

- 68 Mr McCartney has confirmed that all services are capable of being provided for the approximately 150 dwellings proposed.
- 69 A geotechnical report prepared by GeoSolve² indicates that there were no issues identified during the site walkover inspection, which would prevent the site from being developed as a residential subdivision. It does recommended that a site-specific geotechnical investigation and assessment, which incorporates intrusive ground investigations (test pits), be completed as part of the detailed

² This report is available to Council should it be required

design phase of any future development and that stormwater to ground soakage is assessed further during detailed design of the subdivision which should include test pit investigations and permeability testing.

- 70 A Preliminary Site Investigation by Davis Consulting Group found that the landuse history for most of the site was extensive pastoral farming and that the only hazardous substances associated with pastoral farming that may have been applied to the site were those associated with the broadacre application of fertilisers and pesticides. The report states that it is highly unlikely this activity would have resulted in the accumulation of contaminants in soil that would exceed the NES soil contaminant standard. Further the background arsenic soil investigation further supports the conclusions that the site is suitable for residential activity.

Transport

- 71 Mr Metherell notes that the primary issue still to be addressed is establishment of a practical legal access solution. With that resolved he considers that the local road network could be extended into the site, with some options being more efficient than others and that in terms of the wider network the rezoning of the site will have a low level of impact in comparison to wider growth occurring in the north of Wanaka.

Statutory Considerations

National Policy Statement on Urban Development Capacity

- 72 The NPS requires councils to provide in their district plans enough development capacity to ensure that demand can be met in the short, medium and long term. Being considered a high-growth urban area Queenstown Lakes District Council is expected to meet all of the requirements of policies in the NPS.
- 73 Ms Hampson notes that depending on the growth scenario applied, the Wanaka UGB area may already have a shortfall of capacity for attached dwellings (if the latent undersupply is recognised), or capacity may be sufficient to cater for medium or long term growth. In all cases, modelled demand suggests that there is not an adequate buffer of capacity to meet demand in the medium-long term. This implies that additional capacity is required to avoid a projected shortfall during this period. The Sticky Forest proposal will add to Wanaka's medium to long term development capacity albeit in a relatively small way. Nevertheless, it would be consistent with the town's growing urban form.

The Otago Regional Policy Statement

- 74 While still subject to Appeal I have considered the Proposed Otago Regional Policy Statement as containing the most up-to-date provisions in terms of Urban Growth. In particular I have focussed on Policy 4.5.1 which is about managing for urban growth and development

75 Policy 4.5.1 seeks in particular to ensure there is sufficient residential land capacity, to cater for the demand for such land, over at least the next 20 years; that the extension of urban areas is coordinated to provide infrastructure in an efficient and effective way; that land is used efficiently; and that in identifying future growth areas the adverse effects on rural activities and significant soils are minimised and that landscape or natural character values are maintained or enhanced.

76 Overall, and taking in account all the evidence, I consider the Sticky Forest proposal would give effect to this policy. I accept however there is a degree of tension with the maintenance of landscape character in that while the majority of the proposed ONL area is retained there is a small area which in other circumstances would likely be consider ONL which is proposed to be removed. In my opinion this comes down the balancing exercise discussed below.

Section 32 Evaluation

77 A detailed s32 analysis, attached as Appendix 2 to my evidence, has been prepared based on the evidence as to costs and benefits (positive and adverse effects). The s.32 has concluded that the proposed rezoning relief better enables the following benefits than the Proposed Plan:

- It enables the owners to obtain economic wellbeing in accordance with the block's compensatory purpose;
- It enables a refined ONL boundary based on a detailed, site-specific, landscape assessment and Part 2 balancing considerations;
- It enables the provision of further urban capacity and housing choice in a location that is surrounded by existing and proposed urban development;
- Provides a mechanism for securing public access to the rural balance of the site;
- Provides a mechanism for developing a Structure Plan to ensure integration with adjacent urban areas;
- Provides a rule package to manage visual effects in sensitive locations.

78 The s32 analysis considers alternatives methods and undertakes an analysis of the objectives and policies concluding that on balance, the proposal better achieves the proposed Plan's objective framework than the zone pattern as notified and enables careful urban growth in an appropriate location whilst concurrently maintaining landscape values, securing recreational access, and enabling the interests of the site's Maori owners to be met.

79 The s.32 assessment has concluded that partial rezoning for residential use and associated rules better, and more efficiently, achieve both the strategic planning framework and Part 2 of the RMA than the proposed plans current zoning framework.

Part 2 of the RMA

- 80 The background and context of this proposal are unusual if not unique in terms of planning outcomes. The proposal involves consideration of section 6, section 7 and section 8 matters and ultimately and importantly an overall judgement in terms of section 5. Within this framework there are in my opinion competing interests and conflicts which I will discuss further.
- 81 Turning first to section 6 matters. Section 6(b) requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. On the basis that approximately half the Sticky Forest site has been included in a proposed ONL this is of relevance. For the avoidance of doubt I do not believe in this instance that section 6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is directly relevant given how Sticky Forest was subsequently 'allocated' as a substitute block. The site is not considered to have any cultural values to the beneficial owners nor is it considered necessarily to be ancestral land.
- 82 In terms of section 7, (b) the efficient use and development of natural and physical resources; (c) the maintenance and enhancement of amenity values; and (f) maintenance and enhancement of the quality of the environment are all relevant.
- 83 In considering the relevance of Section 8 I note the following paragraphs taken from the *Wai 27 Tribunal Report on Ngai Tahu Ancillary Claims 1995* in relation to the Wanaka Block:

We consider lastly the 1658-acre block allocated but never granted to landless Ngai Tahu. The land allocated between Lakes Wanaka and Hawea to 57 individuals, most of whom lived hundreds of miles away, was steep and rocky and of no conceivable use to them. The Tribunal has already found that the South Island Landless Natives Grants Act 1906 and its implementation were but a cruel hoax, and they cannot be reconciled with the honour of the Crown. This finding was made on the basis that all of the land set aside for these purposes was in fact granted. That substantial areas of land were allocated to Ngai Tahu individuals but never subsequently granted we find further magnifies the breach of the Treaty principle requiring the Crown to act in good faith.³

As a result of Ngai Tahu's petition in 1979, the Crown accepted that the tribe had a valid claim with respect to this land. Positive steps were taken by the Department of Lands and Survey to compensate Ngai Tahu with land for the loss of both the landless natives block and the fishing reserve. As stated above, we support these moves and recommend that negotiations be recommenced immediately on a value-for-value exchange in land. We point out that as the 1658-acre block was actually allocated to 57 named Ngai Tahu it is important that any compensatory land awarded in respect of this area, as distinct from the fishery reserve, be

³ Wai 27 Tribunal Report on Ngai Tahu Ancillary Claims 1995

vested in the descendants of the original allocatees. This should be borne in mind by both Crown officials and Ngai Tahu negotiating the reparation.

- 84 On the basis of the above it is my opinion that section 8 is of particular relevance in this case.
- 85 The competing interests and conflicts in my opinion lie between the landscape values particularly associated with the proposed ONL and the other values namely the recreational, community and economic. The landscape values are contained primarily in the geography and visibility of the site. The existing exotic trees while prominent on the site are not a particularly integral part of those values and indeed the proposed plan in my view sets itself against forestry within an ONL and certainly the species of tree currently on the site. This is perhaps one of the conundrums of the Plan proposing an ONL over this site. On the other hand the current forestry is an integral part of the recreational values on the site. The ability to ride trails in amongst and between well-established trees as referred to by Mr Greenaway is an integral part of the enjoyment obtained from mountain biking through this area.
- 86 There is also conflict between the landscape values and the economic use of the site. As I have already referred to the ONL area in particular makes the continuation of forestry difficult and the prohibition of *Pinus radiata* and Douglas fir make this even less likely. I note that at the time in 1998 when the Substitute Block was selected by the Crown and Ngai Tahu, the site was zoned Rural and there was no ONL boundary nor a prohibition on *Pinus radiata* and Douglas fir plantings.⁴ The proposed plan makes the continuation of this land use at best marginal. Other activities are also restricted by the landscape values attributed to the site.
- 87 The balancing of these competing and conflicting interests and values is complex. In my opinion one needs in the first instance to look at the purpose for which the land (Sticky Forest) has been provided. It essentially stems from a breach of the Treaty principles going back more than 100 years, the Crown's redress being to provide for the economic sustenance (which I equate to wellbeing) of the descendants of the original beneficiaries. These descendants therefore should be enabled to utilise the land for some form of economic purpose rather than having it further alienated by district plan provisions.
- 88 The zoning now proposed provides an opportunity to address the economic use of the site which will benefit the descendants of the original beneficiaries, result in the retention of a significant proportion of the recreation values for the community and protect a significant portion of the high level landscape values.
- 89 While I accept that landscape values are important in this instance I consider the resulting benefits both for the community in recreational terms and the beneficial owners in economic terms outweigh the relatively moderate landscape effects particularly associated with the reduced ONL

⁴ The land was not then surrounded by urban development. It was selected as 'commercial land' using Deferred Settlement provisions of the NTLAct, no doubt reflecting the development potential it had at that time.

area. In this regard I note that no residential zoning is proposed within the revised ONL boundary and that mitigation measures are proposed in the more sensitive landscape areas (the LLR zone) beyond the proposed ONL boundary. To perhaps explain this another way, if the landscape values are to prevail the distinct possibility exists for the current recreational values and the benefits which accrue from them to be lost. Further, the economic wellbeing to the beneficial owners which this site was to provide may never occur which would seem to me to aggravate the Crown's past Treaty breaches, and effectively deny the beneficiaries redress.

- 90 In my opinion and for the above reasons the economic wellbeing of the beneficial owners and community wellbeing which are captured in section 5 outweighs the landscape values now being proposed which relate to section 6. In this context I note that the proposal still maintains an ONL across approximately half the site, with design controls on the more visually sensitive areas – so it's not that s6 is being ignored or trumped, rather it's around the margins where I lean more towards s.5 and 8, with s6 still taking prominence in the most visually significant areas.

Conclusion

- 91 The proposed planning regime in my opinion delivers a balanced outcome in terms of landscape and amenity values and also provides significantly for both community wellbeing in the form of guaranteeing future recreational access and economic wellbeing for the beneficial owners. At the same time it addresses a broader treaty matter (or indeed grievance) which has been outstanding for over 100 years. In this context while I accept that it is not necessarily the place of the District Plan or indeed the RMA to address that grievance, the District Plan in my view needs to be cognisant of the matter and not create further hurdles and barriers. In my opinion the proposed amendments to the Proposed Plan provide a balanced approach to the competing and conflicting interests and values which achieve the purpose of the RMA in terms of its sustainable management principles. I would also add that in this context in terms of a rezoning proposal this site is entirely unique and no other site can claim similarities.
- 92 If the Hearings Panel were unable to support the rezoning then my position, provided there is scope, would be for the ONL to be removed from the site in its entirety and the two present species of commercial forestry to be enabled specifically on this site. The beneficial owners primary fall-back position is to retain, harvest and replant the forestry on the site and consenting this under the situation of an ONL overlay would in my opinion be difficult and create a high level of uncertainty for the owners. While I accept that landscape values are very important in this particular context where, as discussed, the purpose of the land is to provide for the economic wellbeing of the beneficial owners, I do not consider having the tight constraints imposed by an ONL would be appropriate. Given the urban zoning on three sides the risk of wilding spread beyond the site is reduced significantly compared to isolated rural blocks.

- 93 Overall, the proposal is considered to better achieve the strategic outcomes sought in the relevant planning documents and better achieves sustainable management under Part 2 of the RMA.



Dean Chrystal

4th April 2017

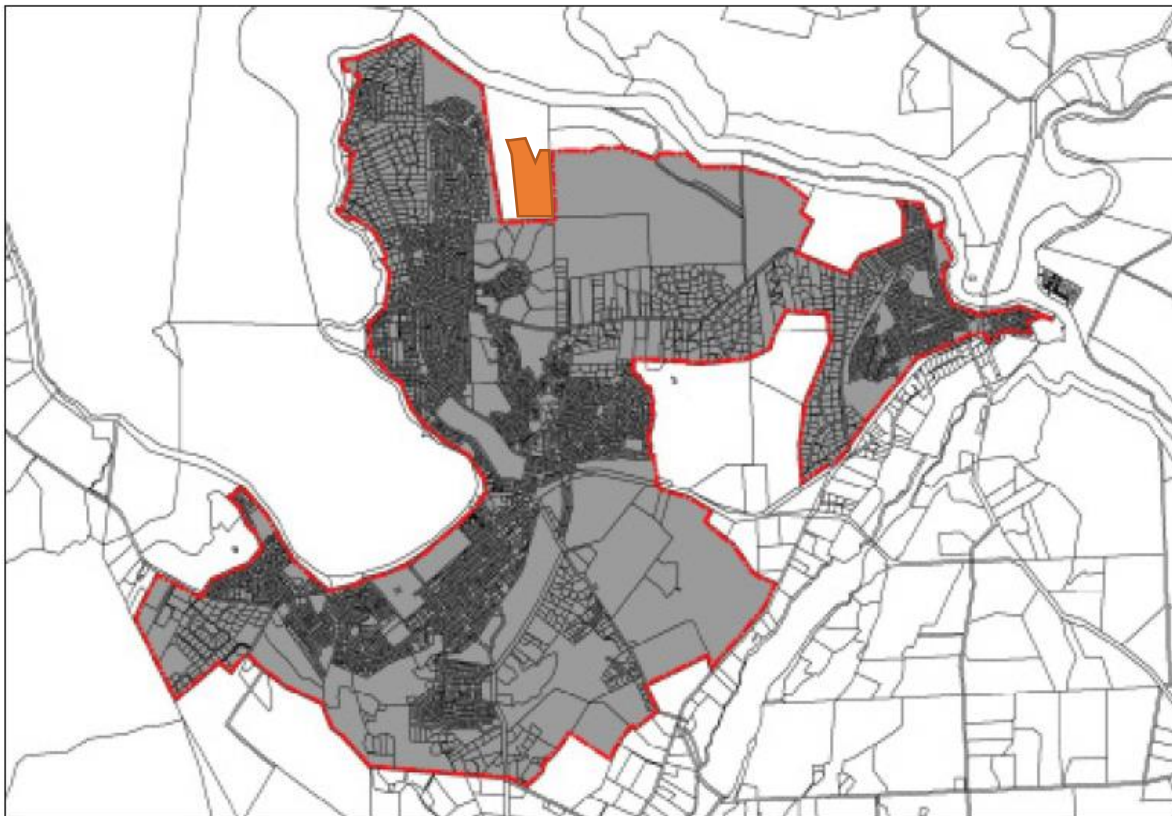
Proposed amendments to the Proposed Plan

Objectives and policies

Part Two – Strategy

Section 4 – Urban Development

Amend the map accompanying Objective 4.2.6 – Wanaka urban growth boundary, to reflect the proposed new urban limit for the Sticky Forest block. Note orange shape below is simply a placeholder - needs amending to reflect proposed zone boundary.



Rules

Part 3 - Urban Environment Chapter

Section 7 – Low Density Residential

Table 1 – Rules – Activities

Amend as follows:

7.4.14 **(a)** – Forestry - Prohibited

7.4.14(b) - Forest harvesting in Sticky Forest, Wanaka - Permitted

Section 11 – Large Lot Residential Zone

Table 1 – Rules – activities

Add new rule:

11.4.x Forest harvesting within Sticky Forest, Wanaka - Permitted

Amend Rule 11.5.1.2 Building Height

A maximum height of 7 metres:

- a. on sites located between Beacon Point Road and the margins of Lake Wanaka; ~~and~~
- b. on sites located between Studholme Road and Meadowstone Drive; and
- c. within the Sticky Forest, Wanaka.**

Amend Rule 11.5.9 Residential Density - Discretionary

A maximum of one residential unit per 4000m² of net site area, except:

- a. 2000m² net site area on sites located between Studholme Road and Meadowstone Drive.
- b. 2000m² net site area on sites located within Sticky Forest, Wanaka.**

Amend Rule 11.5.10 – Building Materials and Colours – Restricted Discretionary

- a. The surface finish of roofs and walls of buildings, including any structure larger than 5m², new, relocated, altered, re-clad or repainted, shall have a surface finish with a reflectance value not greater than 36%. Except:
For sites on Mt Iron located above 330 metres above sea level, **and within Sticky Forest:**
- b. All exterior surfaces shall be coloured on the range of black, browns, greens or greys;
- c. Pre-painted steel, and all roofs shall have a reflectance value of not greater than 20%;
- d. Surface finishes shall have a reflectance value of not greater than 30%.

Note: where any conditions of a relevant subdivision or land use consent require lower reflectance values, those conditions shall prevail.

Discretion is reserved to all of the following:

- Whether the building would be visually prominent, especially in the context of the wider neighbourhood, or whether the building is located on a prominent or elevated position.
- Whether the proposed colour is appropriate given the existence of established screening or in the case of alterations, if the proposed colour is already present in a long-established building.

- The size and height of the building where the subject colours would be applied.

Part 5 – District wide matters

Chapter 27 – Subdivision and Development

27.5 Rules – Standards for Subdivision Activities

Amend 27.5.1 Minimum Lot Areas as follows:

Large Lot Residential: 4000m²

2000m² in the following locations:

Between Studholme Road and Meadowstone Drive; **and**

Sticky Forest, Wanaka

Section 27.7 – Location-specific objectives, policies and provisions

Add new objective and policies

27.7.x Objective – Sticky Forest, Wanaka – to enable a high amenity, low density residential environment whilst concurrently maintaining landscape values and securing public recreation access to the northern and western forest area.

Policies

27.7.x.1 Ensure that before any subdivision or development occurs within the Sticky Forest Low Density or Large Lot Residential Zones, that long-term public access to the northern and western forest areas within the Rural Zone has been secured through an appropriate method.

27.7.x.2 To provide for ongoing recreation and rural activities in the rural-zoned portion of Sticky Forest.

27.7.x.3 To provide for the future urban development of the Low Density and Large Lot Residential zoned areas subject to a resource consent being granted for a Structure Plan for the area. The Structure Plan shall show the following elements:

- i) Road access locations and principal internal road alignments;**
- ii) Stormwater infrastructure locations including any retention basins;**
- iii) Areas subject to building platform, design, and landscaping requirements in visually sensitive locations within the Large Lot Residential zone; and**
- iv) Pedestrian and cycle links through the Residential Zones, and connections to the Rural-Zoned portion of Sticky Forest.**

Section 27.8 Rules – Location Specific Standards

Add new rule

27.8.x – Sticky Forest

27.8.x.1 No subdivision shall take place within the Low Density or Large Lot Residential Zones at Sticky Forest, Wanaka, prior to public cycle and pedestrian access having been secured to the Rural Zoned area of Sticky Forest and the forestry in this area retained through an appropriately structured mechanism. Such mechanisms could include vesting in Council for reserve purposes, a community trust or easements created via a subdivision consent.

27.8.x.2 No subdivision shall take place within the Low Density or Large Lot Residential Zones at Sticky Forest, Wanaka, unless it is consistent with a Structure Plan that has been lodged with, and approved by, the Council, in accordance with 27.8.x.3.

27.8.x.3 The preparation of a Structure Plan for the entire Sticky Forest area is a Restricted Discretionary Activity. The exercise of Council’s discretion shall be limited to:

(a) The principal internal roading layout, and the external road access locations, including integration with, and transportation effects, on the adjacent road network;

(b) Location and suitability of pedestrian and cycling routes and connections to surrounding pedestrian and cycle networks, including access to the rural zoned portion of Sticky Forest;

(c) The proposed methods of servicing by infrastructure, including the location of any stormwater retention basins; and

(d) The extent of any specific building controls necessary to manage landscape effects, including the need for building platforms to be identified within the Large Lot Residential Zone.

27.8.x.4 Subdivision within the Large Lot Residential zone and that is in accordance with a Structure Plan prepared under rule 27.7.x.3 shall be a restricted discretionary activity, subject to other subdivision rules in this Plan. The exercise of Council's discretion shall be limited to:

(a) the identification of building platforms to manage potential landscape effects;

(b) the need for a landscape plan to manage potential landscape effects; and

(c) the location of roads and earthworks to manage potential landscape effects.

Planning Maps 18, 19, and 20

That the ONL boundary and Urban Growth Boundary be amended as set out in this Appendix.

That the northern and western portion of the site retains its proposed rural zoning as shown in this Appendix.

That the southern portion of the site is amended to include Low Density and Large Lot Residential zonings as shown in this Appendix.

Other

Any other such consequential amendments as may be necessary to give effect to the relief sought through this submission.

Alternative Relief

In the event that the Panel do not accept the relief sought and the notified Rural Zoning is retained across the entire site, the following amendments are sought:

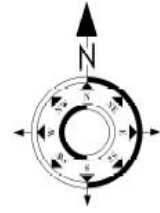
Chapter 21 Rural Zone

Section 21.4, Table 1, Activities – Rural Zone

Amend rule 21.4.21 Forestry Activities in Rural Landscapes – Discretionary

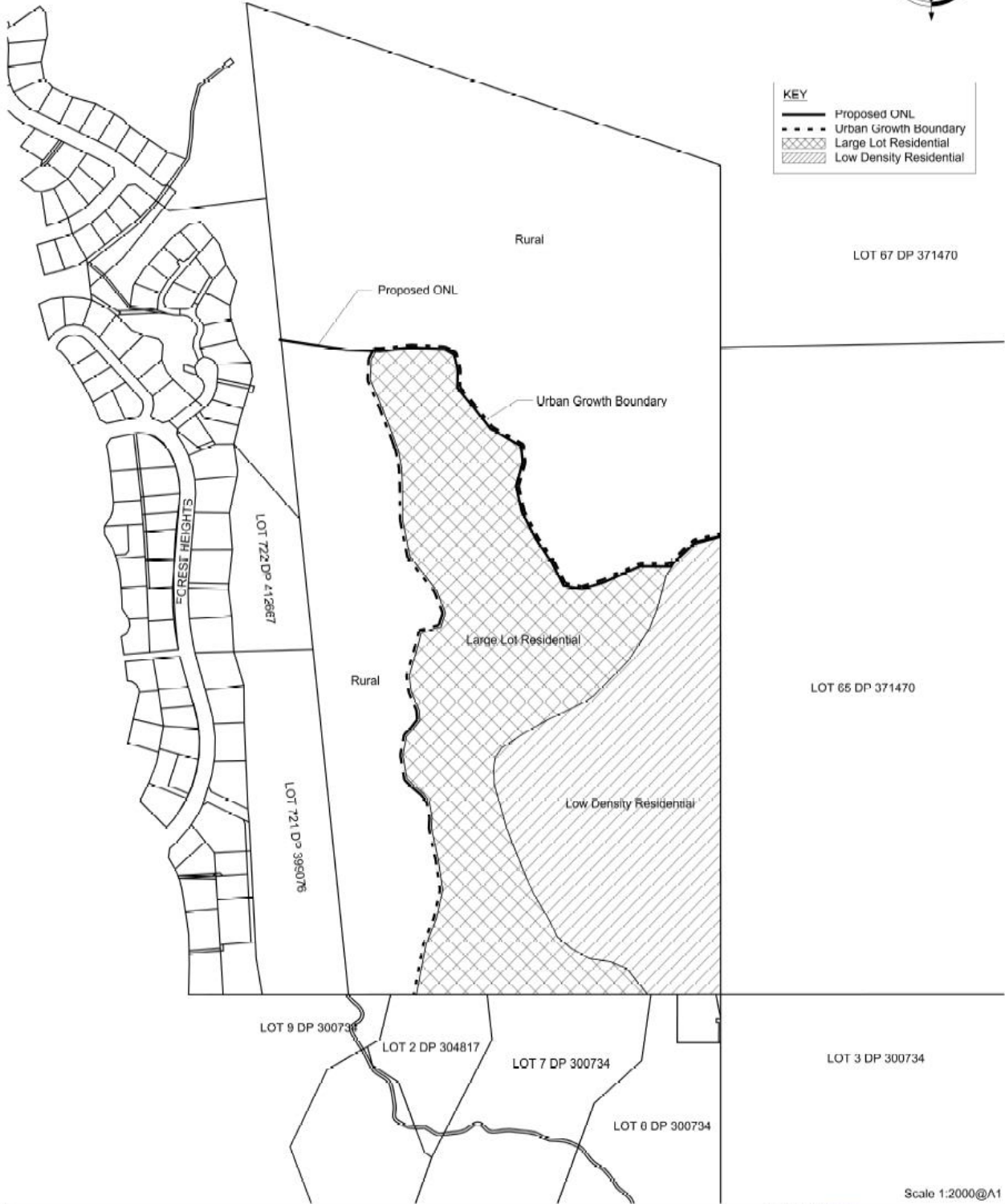
Forest harvesting, and replanting with species not subject to Chapter 34 except for *Pinus radiata* and Douglas fir, in Sticky Forest, Wanaka - Permitted

The planning map is amended to remove the ONL overlay



KEY

- Proposed ONL
- - - Urban Growth Boundary
- ▨ Large Lot Residential
- ▧ Low Density Residential



AMENDMENTS TO PLANNING MAPS

Scale 1:2000@A1

Autocad ref: WARRA

Drawing **100.1** Issue **A**

Sheet 1001

Section 32 Report

SECTION 32 ANALYSIS: PROPOSED CHANGE IN ZONING OF STICKY FOREST, WANAKA

Introduction and Background

- 1 The purpose of this section 32 analysis is to accompany a submission by Michael Beresford (submission number 149) on the proposed Queenstown Lakes District Plan (“the proposed Plan”).
- 2 As explained in the accompanying evidence and in that from Mr Beresford, the subject property (Hawea-Wanaka Substitute Block) is identified in the Ngai Tahu Claims Settlement Act 1998. The original Hawea-Wanaka Block was not available as settlement redress for Ngai Tahu in 1998, so a substitute block (Commonly known as ‘Sticky Forest’) is to be vested in the descendants of the original owners of the original Hawea-Wanaka block which had been established under the South Island Landless Natives Act 1906. The process of transferring the land to the descendants of the original owners is currently progressing through the Office of Treaty Settlements and is anticipated to be completed this year.
- 3 The purpose of the settlement is to provide for the ‘economic support and maintenance’ of the descendants of the original owners. In its current landuse, and proposed zoning under the District Plan as notified, the block provides very little opportunity for such economic wellbeing, thereby largely negating its core purpose for redressing historical grievances.
- 4 The block is located immediately adjacent to Wanaka Township, has residentially zoned and developed land to the west, the lake and margins to the north, and the proposed urban limits and residentially zoned land to the south and east. As such it creates an unusual ‘notch’ in the proposed future urban form of Wanaka Township.
- 5 The northern half of the block is included within a proposed Outstanding Natural Landscape (‘ONL’) overlay. The appropriate placement of this line has been carefully assessed in the evidence of Mr Field, who has concluded that the ONL boundary is justified over the northern portion of the block, and that conversely the southern part of the block does not display sufficient landscape values to meet the criteria for inclusion within the ONL. The implications of the ONL boundary and it’s appropriate location taking into account the wider Part 2 RMA matters is discussed in the above evidence.
- 6 The original submission sought that the entire block be rezoned to provide for urban residential development. No further submissions were received opposing this relief.

- 7 Following consideration of Mr Field's assessment and consideration of the sites topography, rezoning of the entire block is no longer sought, or found to be justifiable under s.32. It is therefore proposed that the area within the ONL boundary will be retained as a rural zone, albeit that the proposed ONL boundary is determined by a combination of landscape and broader Part 2 considerations. The southwestern part of the block outside the ONL is also to be retained as Rural Zone given its steeply sloping topography and high visibility.
- 8 The balance of the site is sought to be rezoned for Low Density Residential and Large Lot Residential. The latter being to manage more landscape-sensitive locations and edge effects around the proposed internal residential and rural site boundaries.
- 9 As a consequence of the Crown's historical Crown alienation of the land parcels comprising the adjoining Kirimoko block, and its subsequent rezoning for urban development, the Sticky Forest land parcel has become landlocked with no legal road access. Resolving legal access to the forest is a critical matter that will need resolution for forest harvesting and recreational access, regardless of District Plan decisions.
- 10 The design of a Structure Plan⁵ for the entire block is challenging in advance of the access location/s being resolved and detailed surveying being undertaken. It is therefore considered that subdivision of the proposed urban zoned portion of the site should be a non-complying activity in advance of both public access being secured to the northern forest area via an appropriate method, and a structure plan for the site being prepared. The process of developing the structure plan is a restricted discretionary consent, thereby enabling any unsuitable layout proposals to be declined if need be, and conversely providing a clear procedural route for confirming an appropriate layout. The proposed operative zoning with an associated structure plan requirement is considered to be an efficient and effective method that signals that urban development is not anticipated within the revised ONL overlay, that urban development of the south-eastern portion of the site is anticipated as a logical extension to Wanaka's urban limit, and that this urban development needs to be to a suitably resolved layout that resolves access and connectivity matters.
- 11 The proposed structure plan would be dependent upon the following matters being addressed:
- i) Legal road access connections being confirmed;

⁵ It is noted that the proposed District Plan terminology includes 'structure plans', 'Outline Development Master Plans', 'Concept Development Plans', and 'Spatial Layout Plans'. Despite the difference in names, these plans all have a broadly similar function of setting out the key structuring elements in greenfield areas such as the main road network, stormwater basins, natural or heritage features to be retained, walkway/ cycleway routes etc. It is intended that the Sticky Forest plan shows similar features at a comparable level of detail. The adjacent Kirimoko Structure Plan (Subdivision Chapter, clause 27.13.2) provides a useful template in terms of the level of content anticipated in the Sticky Forest Structure Plan.

- ii) Identification of the primary roading connections and layout through the site; stormwater network and basin locations; and any additional controls required within the more visually sensitive Large Lot Residential zone.
- 12 Resolution of the most appropriate method for securing ongoing public access for walking and mountain biking could be in the form of the land being vested in Council as recreation reserve (should Council wish to accept the balance area), or alternatively retained in private ownership with either easements or consent conditions in place via a subdivision consent to secure public access. The creation of a recreation trust or society that takes ownership of the balance area is a third possible method.
- 13 The standard Low Density Residential and Large Lot Residential Zone provisions are considered to be generally appropriate for the majority of the proposed urban zoned portion of the site, subject to minor exceptions that follow a similar format to those proposed for other locations in the notified plan. Given both the limited number of rule exceptions, and the relatively small size of the proposed urban zones, it is not considered necessary, efficient, or effective to introduce a new Part Six 'Special Zone' for the site.

The submission

- 14 The relief sought in submission #149, as amended as a result of further landscape assessment, is given effect to through the proposed amendments to the Plan set out in Appendix 1.
- 15 In summary these amendments provide for the following:
- i) Amend the Urban Growth Boundary map for Wanaka in Chapter 4, Objective 4.2.6 to include the south-eastern portion of the site;
 - ii) Amend the rules in the Low Density and Large Lot Residential zones to provide for forest harvesting as a permitted activity in order to enable the existing forest in the urban zoned areas to be removed prior to urban development;
 - iii) Amend the Large Lot Residential Zone provisions to enable a density of one dwelling per 2,000m²; a height limit of 7m; and to make the site subject to the Mt Iron controls on reflectivity and colour choice;
 - iv) Amend the Chapter 27 subdivision provisions to add a new set of location-specific objective, policies, and rules to address the Sticky Forest block in a similar manner to that proposed for other greenfield development areas in the District. These proposed

provisions include the requirement that subdivision is a non-complying activity prior to the implementation of a method securing ongoing public access to the northern and western forest area and the provision of a Structure Plan for the block that identifies road access and layout, stormwater basins, and areas subject to additional controls or consent notices to manage potential landscape effects;

- v) Amend Planning Maps 18, 19, and 20 to show the proposed urban zone boundaries and ONL boundary;
- vi) In the event that the Panel do not accept the relief sought and instead retain the existing rural zoning across the entire site, that Chapter 21 (Rural) and Chapter 34 (Wilding Exotic Trees) be amended to permit the harvesting and replanting of forestry across the block and that the planning maps be amended to remove the ONL line from the site (given the Part 2 balancing assessment set out in the evidence above).
- vii) Any other such consequential amendments as may be necessary to give effect to the relief sought through this submission.

Section 32 RMA

16 The most recent amendments to Section 32 came into effect on 3 December 2013. Subsections 32(1) and (2) require that an evaluation report required under this Act must:

- (1)(a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) *examine whether the provisions of the proposal are the most appropriate way to achieve the objectives by -*
 - (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) *summarising the reasons for deciding on the provisions; and*

(c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) *an assessment under subsection (1)(b)(ii) must -*

(a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*

(i) *economic growth that are anticipated to be provided or reduced; and*

(ii) *employment that are anticipated to be provided or reduced; and*

(b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*

(c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

(2) *If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**) the examination under subsection (1) (b) must relate to -*

(a) *the provisions and objectives of the amending proposal; and*

(b) *the objectives of the existing proposal to the extent that those objectives -*

(i) *are relevant to the objectives of the amending proposal; and*

(ii) *would remain at the amending proposal was to take effect.*

17 (6) In this section, -

18 objectives means, -

(a) *for a proposal that contains or states objectives, those objectives:*

(b) *for all other proposals, the purpose of the proposal*

19 **proposal** means a proposed standard, statement, regulation, plan or change for which an evaluation report must be prepared under this Act.

20 **provisions** means, -

(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

(b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

21 The provisions of Section 32 as amended in December 2013 are relatively complex and are dependent on the context of each particular proposal, and whether it is a proposed plan, a plan change, or a variation. This Section 32 assessment is undertaken in accordance with the amendments made to Section 32, and has taken into consideration the 'Interim Guidance' provided by the Ministry for the Environment entitled "A guide to Section 32 of the Resource Management Act 1991 - Incorporating changes as a result of the Resource Management Amendment Act 2013".

22 The following factors are relevant to this proposal:

22.1 In terms of Section 32(6)(a) the submission does not seek to amend any of the notified objectives in the proposed Plan. It does add a single new site-specific objective to Chapter 27 in order to maintain a consistent approach with how the proposed Plan addresses other site-specific greenfield areas. The objective takes a similar form to other site-specific objectives and sets out the broad outcome sought for the Sticky Forest block. Whilst there is no presumption of some objectives being more important than others, the proposed Plan structure nonetheless includes four 'Strategy' chapters that set the high-level direction for the District, with zone or issue-specific objectives then located in subsequent chapters and that provide further detail as to how the strategic objectives will be achieved. The proposed site-specific objective is consistent with this framework in that it articulates the site-specific outcomes that are necessary in order for the strategic objectives to be achieved.

22.2 In addition to the site-specific objective, the proposal seeks to add several site-specific policies as methods to achieve the proposed objective, along with several rule amendments as methods to again achieve the objective. The amendments also include alterations to the zone boundaries and ONL boundary as shown on the planning maps.

- 22.3 In terms of Section 32 this assessment examines and compares the provisions contained in the proposed Plan and their expected outcomes with those inherent in the proposal by the submitter. In essence this assessment examines whether or not the proposed provisions, or the notified provisions, better achieve the Plan's objectives and then ultimately Part 2 of the Act.
- 22.4 In undertaking this assessment it is recognised that the proposed Plan's objectives are not settled and are themselves subject to possible amendment in response to concerns raised by other submitters. The Hearings Panel will therefore ultimately need to ensure that the relief sought through this submission and this associated s.32 assessment is aligned with the decisions that the Panel ultimately makes on the wider objective framework.
- 22.5 It is also recognised that due to the unavoidable staged nature of hearings on the proposed Plan, that officer reports and recommendations have been made on a number of chapters, including recommended amendments to objectives. There is no presumption that the Panel will adopt the officer recommendations, especially where these are challenged by other submitters in evidence. This assessment is therefore based on the Plan's objectives as originally notified.

APPLICATION OF S32

- 23 *Section 32 (1) (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and.....*
- 24 The Purpose of the Act is to promote the sustainable management of natural and physical resources. Sustainable management means managing the use development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety subject to the three qualifications in subsections (a) – (c).
- 25 The objective of the proposal is to provide a policy, zoning and rules 'package' which will enable Sticky Forest to be partially developed for low density residential purposes, and partially retained for ongoing recreation and rural use primarily within the area identified as having sufficient value to qualify for inclusion within the ONL.
- 26 The lack of road access to the block makes development of a Structure Plan problematic at this point in the District Plan review process. It is therefore proposed that whilst part of the block is considered in principle to be suitable for urban purposes, that subdivision of this part

of the block be a non-complying activity until such time as, amongst other things, public access is secured to the site and to the northern and western retained rural area and a Structure Plan is developed.

- 27 If the proposed change in zoning takes place, then compared with the land use regime currently proposed under the proposed Plan:
- i) There would be little change in terms of the prospects for rural production in the area identified to be retained as Rural Zone, and the area located within the ONL;
 - ii) The ONL values would be retained, with the ONL line robustly justified through a site-specific assessment and balanced against wider Part 2 considerations;
 - iii) There would be a mechanism in place that enables long-term public recreational access to this rural area to be secured;
 - iv) There would be an increase in housing availability and choice in a location that is easily accessible to the Wanaka town centre and associated amenities and services;
 - v) That such housing provision would constitute a logical 'in-filling' of Wanaka's urban form and that therefore does not constitute sprawl or the provision of housing in an isolated or disconnected location;
 - vi) That the proposed Large Lot Residential zone provisions enable potential landscape effects to be effectively managed in the more visually sensitive part of the proposed urban zone.
- 28 Subsection (2)(a) calls for natural and physical resources to be sustained to meet the reasonably foreseeable needs of future generations. The proposed land use and zoning would see the natural and physical resources in the rural zoned northern area remain unchanged, but with improvements to recreational opportunities and the protection of identified ONL values. The south-eastern area's physical resource of land that is not constrained by high landscape values being able to be productively used to provide housing for the Wanaka community would be enhanced by the proposal.
- 29 On this comparative basis, it is considered that the proposed rezoning will produce an outcome that would better enable both the landowners and the wider Wanaka community to provide for their social, economic, and cultural well-being with the potential for adverse effects being appropriately avoided, remedied, or mitigated through the careful placement of zone boundaries based upon a site-specific landscape assessment. The difference in effect

between the outcomes sought in the notified Plan and the proposal come down to the proposal enabling residential activities in an appropriate location, whilst protecting identified landscape values and providing a mechanism for securing long-term recreational opportunities.

- 30 Subsection (2)(b) seeks to safeguard the life supporting capacity of air, water, soil, and ecosystems. The soils across the block are not highly versatile, being either on relatively steep slopes, and/or being utilised for plantation forestry. Whilst there are small areas of Manuka and mixed native plants scattered through the plantation forest, none of these have been identified in either the operative or proposed District Plans as being of any particular significance. Water-related matters including the reticulation of services and the appropriate management of stormwater will be addressed as part of future subdivision consents and any associated consents required by the Otago Regional Council. The evidence of Mr McCartney shows that servicing of the block is realistic.
- 31 Subsection (2)(c) calls for the adverse effects of activities on the environment to be avoided, remedied, or mitigated. The evidence of Mr Field provides a detailed, site-specific landscape assessment. As a result of this assessment the area sought for rezoning for urban activities has been substantially reduced relative to the relief sought in the original submission. Mr Field has confirmed that the northern part of the site displays ONL values and that as a consequence urban development in this area would not be appropriate. Conversely Mr Field is satisfied that the south-eastern area could be developed for urban purposes. A wider Part 2 assessment to the final location of the ONL boundary and has concluded that on balance the ONL line can be justified in a location that departs somewhat from Mr Field's evidence, subject to appropriate planning controls being in place to manage potential visual effects. The proposed zoning pattern confirms that ONL values are maintained by the proposal and that the proposal overall achieves the balancing of at times competing outcomes sought in Part 2.
- 32 Wider urban form, infrastructure, and transport-related effects are addressed through the combination of the site's location surrounded by Wanaka's urban edge, and the ability to manage access and servicing through the standard subdivision processes and the development of a Structure Plan for the site. These matters are further addressed in the evidence of Mr Metherell on transport and Mr McCartney on servicing.
- 33 Turning to Section 6 of the Act, subsection (b) calls for the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. As discussed above, the site has been subject to a detailed landscape assessment that has identified that

a large proportion of the site does indeed contain ONL values. The relief sought has therefore been amended to take these values into account and to ensure that they are not threatened by inappropriate development.

34 Subsection (c) calls for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The site concerned does contain small pockets of native vegetation and there are individual native plants scattered through the understory of the plantation forestry. Such plants and associated habitat have not been identified as meeting a 'significant' threshold.

35 Subsection (e) is discussed in more detail below.

Section 7

36 Under Section 7, there are a number of matters which have some bearing on the matter.

37 Subsection (b) calls for the efficient use and development of natural and physical resources. The proposed zoning will ultimately result in an outcome which enables the efficient use and development of the less sensitive parts of the site for higher value urban purposes. The land that is proposed for urban purposes is well located relative to the Wanaka town centre and the proposed urban limits for the township, thereby enabling future residents to be located in a convenient location that is readily accessible to the township's amenities and services.

38 Subsection (c) calls for the maintenance and enhancement of amenity values and subsection (f) requires particular regard to be had to the maintenance and enhancement of the quality of the environment. These values will be maintained through the careful placement of the proposed zone boundaries, the use of Large Lot Residential zoning in the transitional edge areas, and the application of the standard zone provisions that have been designed to manage amenity-related outcomes.

Section 6(e) and Section 8

39 Section 6(e) requires decision makers to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. Section 8 requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are taken into account.

40 As set out above, the Sticky Forest block is to be provided as compensation in recompense for the past confiscation of land from the original Maori owners. Whilst the site does not

contain any known areas of waahi tapu or historical occupation, thus reducing the immediate relevance of s6(e), its role is to provide appropriate compensation for the loss of land that held those values. The proposed development of a portion of the site will enable the site to be used according to its compensatory purpose and will enable the land owners to meet their social and economic needs. The ability of the land to be efficiently used as part of the Treaty of Waitangi settlement process is a key differentiator between this site and other blocks in the Queenstown Lakes District.

(b) examine whether the provisions of the proposal are the most appropriate way to achieve the objectives by -

(i) identifying other reasonably practicable options for achieving the objectives; and

41 There are broadly five alternatives available to the submitter as follows:

- i) Developing the land for farming purposes in accordance with the Rural Zone and ONL provisions (with or without provision for ongoing public access);
- ii) Rezoning a portion of the site to Low Density and Large Lot Residential, but with differently located zone boundaries;
- iii) Rezoning a portion of the site to a higher density residential zone; or
- iv) The *alternative method* of making application by way of resource consent for the proposed future residential use of a portion of the site.
- v) Alternative urban outcomes and associated zonings to enable commercial or industrial activities. Such zonings have been briefly examined, however they are not considered to be consistent with the proposed Plan's 'centres based' objective and policy framework for commercial activities. Industrial and commercial development on the site is likewise not considered to be compatible with either Wanaka's urban form and anticipated commercial and industrial pattern, or the site's location adjacent to existing and proposed residential areas and the ONL. This option has accordingly not been considered further.

42 In terms of the wider District Plan assessment, there may also be alternative sites that could provide for future urban growth for Wanaka. Consideration of such alternative sites in response to other submissions will be one of the Panel's key responsibilities through this hearings process. It is noted that such sites are unlikely to be surrounded by proposed urban

development on three sides, or be able to provide for the ongoing public access to an established walking and cycle trail network. Alternative sites will likewise be unable to provide for the wellbeing of descendants of the original settlement block as recompense for historic grievances.

Development within the parameters of the Rural Zone provisions

- 43 The proposed Rural Zone provisions control the harvesting of existing forest blocks as a fully discretionary activity, with additional policy direction in Chapter 6 regarding landscape outcomes. Subsequent replanting with pinus radiata or douglas fir species is prohibited through Chapter 34. Whilst consent may be possible to harvest the existing trees, subsequent ongoing use of the land for forestry purposes is implausible given the prohibited status of the main plantation tree species. Assuming a consent can be obtained to harvest the trees, then grazing of the area would be permitted, albeit that stocking rates in a non-irrigated post-harvest area are likely to be extremely low and are unlikely to provide any form of economic return.
- 44 Rural dwellings are a fully discretionary activity in terms of the identification of an appropriate building platform. The Plan provisions require siting such a platform within the ONL to be an exceptional circumstance, and therefore the prospect of a dwelling being able to be located within the northern half of the site is considered to be unlikely. Several rural dwelling platforms may be consentable in the southern half of the site.
- 45 In summary, plausible scenarios for the block under the proposed zoning include a difficult consenting pathway to harvest the existing forest, a prohibited pathway to replant, very low density grazing, and a possible consenting pathway for a handful of rural dwellings in the southern portion of the site.
- 46 As set out in the evidence of Mr Copeland, the economic concerns under the proposed rural zoning are extremely low. Such low returns negate the compensatory purpose of the Treaty of Waitangi settlement process.

Rezoning a portion of the site to Low Density and Large Lot Residential, but with different zone boundaries

- 47 This option is broadly similar to that sought in evidence, with the difference being that the final location of the Residential/ Rural zone boundary is shifted to a different location. Such

a shift could result in an increase in the amount of land zoned for residential purposes, a reduction in the overall area, or a similar area but to a different spatial pattern.

- 48 The proposed zone boundary has been carefully considered, taking particular guidance from the evidence of Mr Field and his identification of the parts of the site that meet ONL criteria. The proposed zone boundary has also been mindful of the compensatory purpose of the block and the need to enable economic well-being as part of the block's core purpose. The proposed zone boundary is also cognisant of the existing forest resource and associated existing recreational mountain bike and walking trails. As a generalisation the parts of the site with the highest potential recreation and landscape values overlap, with the southern portion of the site likewise displaying less value for both elements. The southern portion of the site is also located directly adjacent to existing and future residential areas and therefore from an urban form perspective makes a logical addition to the future growth of Wanaka and the creation of a coherent and connected community.
- 49 The proposed Low Density Residential Zone boundary is bordered by the Large Lot Residential zoning in locations that either display more sensitive landscape values such as ridgelines, and/or where a buffer transition with an increased proportion of open space to built-form is necessary for achieving a positive landscape outcome and transition to the area to be retained under a rural zoning.
- 50 It is acknowledged that following consideration of evidence at this hearing, and the feedback from Council officers, that minor changes to the relative boundaries of the proposed zones may be necessary to address specific Panel concerns (should such arise). Such minor boundary changes are not considered to threaten or negate the conclusions of this s.32 assessment.

Rezoning to a higher density residential zone

- 51 This option retains the core proposition of the southern area having a residential zoning and the northern area retaining a rural zoning, with the key difference being that rather than being a mix of Low Density and Large Lot Residential Zones, there would be areas of Medium or High Density Residential Zones.
- 52 The proposed Plan's policy framework in Chapters 4, 8, and 9 identifies that medium and high density zones can play an important role in providing both housing choice and in helping to accommodate urban growth whilst limiting the extent of sprawl. The location of higher density housing does however need to be carefully considered. In general, higher density residential zones are located close to town centres where they can both support the role and

function of those commercial centres by increasing the number of people living in the immediate retail catchment, and concurrently enabling residents to live within easy walking or cycling access of the amenities and services provided by those centres. Pockets of higher density housing may also be appropriate where located as part of large, comprehensively planned, greenfield developments, where again such developments are of a sufficient scale as to provide amenities and services to those future residents.

- 53 The proposed rule framework of the medium and high density residential zones anticipates and provides for small scale commercial activity, reflecting both the more urban amenity expectation of these zones and the benefits of providing services to residents.
- 54 The Sticky Forest location does not lend itself to large areas of higher density housing. It is not located adjacent to Wanaka's town centre and is instead surrounded by proposed Low Density Residential zoning. As such, the insertion of higher density housing typologies would be somewhat incongruous in the wider pattern of development anticipated for Wanaka. The Sticky Forest block is not of sufficient scale to be able to sustain or create its own retail catchment or to sustain the range of services anticipated by higher density housing locations.
- 55 The landscape assessment prepared by Mr Field has identified that in addition to the ONL, parts of the site contain sensitive landscape values. In these areas low density housing with a high proportion of open space and garden planting relative to built-form is appropriate but where higher density housing with increased building height combined with increase impervious surfacing and more limited tree planting opportunities would not be acceptable.
- 56 The proposed combination of Low Density and Large Lot Residential zoning is considered to be more consistent with the outcomes anticipated by the proposed Plan for sites with the locational attributes of Sticky Forest, than the more urban, centre-adjacent locations where higher density residential zonings are anticipated.

Make application for resource consent

- 57 With respect to the proposed zoning and land use pattern proposed for Sticky Forest, the following issues are considered to favour the option of zoning through this review process, rather than through a future resource consent application.
- 58 For large-scale activities, it is appropriate that what is "seen on the ground", or anticipated to occur in the future, is reflected by the zoning. The conversion of the southern portion of Sticky Forest to a residential suburb represents a major change from the current observed land use

over a large area of land. As such it would be directly contrary to the outcomes reasonably anticipated for a Rural Zone.

59 It is considered that it would be very difficult, if not impossible, for a resource consent application to develop suburban density housing in a Rural Zone to succeed, given the objective and policy framework applying to both the Rural Zone and to the more strategic objective direction on urban growth and the accommodation of such within areas identified in the District Plan through the tool of urban zonings.

60 Resource consenting is also a piecemeal and somewhat ad hoc process which does not provide opportunity for the kind of broader perspective that can be applied through a District Plan review process. The approach being taken by the submitter is to establish a broad framework for the future of Sticky Forest as a whole, in order to provide long-term certainty to both themselves and the wider community, with any subsequent resource consenting (where necessary) focusing on detailed implementation and matters that are considered as part of any subdivision proposal.

(b) examine whether the provisions of the proposal are the most appropriate way to achieve the objectives by -

a.

(iii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

61 The requirements of this subclause are further subject to the following subclause of Section 32;

(2) an assessment under subsection (1)(b)(ii) must -

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for -

(i) economic growth that is anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and.....

- 62 The key environmental effects relate to landscape sensitivity and are addressed in the evidence of Mr Field. The cultural effects are set out in the evidence of Mr Beresford and are positive in that the proposal better provides for the compensatory purpose of the land than retention of the proposed Rural Zoning with an ONL overlay. The social effects relate to the provision of additional housing choice in a convenient location for the Wanaka community, along with a process for securing long-term public access to the existing recreational trails in the northern and western half of the block.
- 63 An economic analysis has been undertaken in the evidence of Mr Copeland. He has found that the proposal presents a significant increase in economic growth through rezoning a portion of the site for urban purposes relative to the alternative of leaving the entire block with a rural zoning. The land is not particularly productive for farming purposes (especially post-harvest). Harvesting requires a fully discretionary resource consent and replanting with the current species is prohibited. The ability to harvest the existing forest and derive economic benefit from that is uncertain and the ongoing ability to forest the land is effectively prohibited. Given the extremely modest potential of the land to provide an economic return under a rural zoning, the alternative of a portion of the site being developed for residential purposes and the balance secured for public recreation and the associated tourism benefits along with the amenity that this provides to the wider Wanaka community represents an increase rather than a decrease in economic growth and employment.

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

- 64 The provisions of the Rural Zone and the Low Density and Large Lot Residential Zones are known and certain (subject to the outcomes of the separate hearings on those chapters). As such there is little uncertainty in the proposed zonings themselves, rather the core question for this s.32 assessment is in regards to the location of the proposed urban zone boundary, the need for any site-specific controls, and the comparison of whether such rezoning or the retention of a rural zoning across the entire site constitutes a more, or less, efficient and effective method for achieving the proposed Plan's objectives (and ultimately Part 2).
- 65 The overall merit of rezoning and the location of the proposed zone boundaries are discussed above and in the evidence for the submitter. Whilst there is considered to be sufficient information for the Panel to make a decision, there are two outstanding matters that remain requiring resolution. The first is the method by which ongoing public access is secured to the northern and western balance area, and the second is the identification of the location of road

access into the southern area and the subsequent implications that has for the internal roading layout and the location of stormwater facilities.

- 66 The proposed rule package addresses both these matters of uncertainty and provides a clear consenting pathway for their resolution. Given that subdivision will be non-complying in advance of such resolution, there is considered to be little risk in acting to rezone the southern area.

Section 32 (3) (where) the (amending) proposal will amend the standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal) the examination under subsection (1) (b) must relate to –

- (a) the provisions and objectives of the amending proposal; and***
- (b) the objectives of the existing proposal to the extent that those objectives –***
- (i) are relevant to the objectives of the amending proposal; and***
- (ii) would remain if the amending proposal was to take effect.***

- 67 Chapter 3 of the proposed Plan sets out the over-arching strategic direction for the District. **Clause 3.1** seeks to manage growth, land use and development in a manner that ensures the sustainable management of the District's special qualities. These qualities of particular relevance to the Sticky Forest block include:

- *Dramatic alpine landscapes free of inappropriate development.*

The proposal includes a detailed landscape assessment to determine the appropriate extent of the ONL in relation to this site;

- *Compact and connected settlements that encourage public transport, biking and walking. and*
- *Diverse, resilient, inclusive and connected communities.*

The proposed urban zone is bounded on three sides by the proposed urban growth boundary for Wanaka. The proposed rezoning therefore constitutes a connected 'infill' of the proposed urban boundary. Subdivision is subject to road access being obtained and an associated Structure Plan being consented to ensure that the new urban area is connected and integrated into the existing and proposed urban fabric of Wanaka. A large portion of the site is likewise proposed to be retained for recreation activities,

thereby explicitly providing for ongoing mountain biking and walking opportunities for the Wanaka community.

- *Distinctive Ngai Tahu values, rights and interests.*

This block's purpose is explicitly to provide for the social and economic wellbeing of the decedents of the original maori landowners as recompense for past land alienations. The proposal will provide a tangible means for meeting these rights and thereby readily distinguish this block from urban growth proposals more generally.

68 The above goals of providing housing choice in logically located and well-connected locations, protecting high landscape values, and enabling maori values, rights and interests to be met constitute key themes that are carried through the proposed Plan's provisions. Rather than assess the relevant objectives on a chapter by chapter basis, these three themes are instead considered in an integrated manner⁶.

Theme one – Integrated urban growth

69 **Objective 3.2.1.4** that seeks to “*recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a sensitive approach is taken to rural amenity, landscape character, heathy ecosystems, and Ngai Tahu values, rights, and interests*”.

70 **Objective 3.2.2.1** and its associated policies seek to ensure urban development occurs in a logical manner that results in a compact, well-designed and integrated urban form that can be serviced in a cost-effective manner and that protects the District's rural landscapes from sporadic and sprawling development. This objective approach involves the establishment of Urban Growth Boundaries ('UGBs') with urban development outside of these boundaries to be avoided.

71 **Objective 3.2.3.1** complements the urban growth objective by describing the outcomes anticipated within the UGB. This objective seeks to achieve a built environment that is desirable and safe. Associated policies seek to ensure that development responds to the character of the site and the need to comprehensively design larger scale developments with an integrated approach to infrastructure design and open space.

72 The urban growth outcomes in Chapter 3 are reinforced through the objectives in Chapter 4 that deal specifically with urban growth management. **Objective 4.2.1** seeks to coordinate

⁶ It is noted that further consideration of landscape and transport objectives are considered in the evidence of Mr Field and Mr Metherell respectively.

urban development with infrastructure and that such is undertaken in a manner that protects rural amenity and outstanding natural landscapes. **Objective 4.2.2** emphasises the use of UGBs as the key tool for directing the location of growth, with the complementary **Objective 4.2.3** seeking that the UGBs a compact and integrated urban form is achieved. Supporting policies again seek the provision of cost-effective servicing, connections to recreational areas, a sensitive transition to rural areas around the UGB edges, and where the density of development is appropriate to its location with higher density opportunities located close to services and amenities.

73 **Objective 4.2.6** and associated policies provide specific direction for Wanaka. The rural character of key entrances to the town is to be retained and protected and a distinction between urban and rural areas is to be maintained. ONLs are to be protected from encroachment by urban development. The UGB should therefore support increased density in appropriate locations to avoid sprawling into rural areas, support the coordinated planning for public open space walkways and cycleways, and include appropriate zone controls and design standards that limit the visual prominence of buildings and provide a sensitive transition to rural land at the edge of the UGB.

74 The proposal is considered to readily meet the above objectives relating to urban growth management. The proposed urban zoning enables a logical infilling of the proposed Urban Growth Boundary for Wanaka in a location that is surrounded by urban development on three sides. The site is able to be serviced and the provisions include the requirement for a Structure Plan to ensure that road access and layout is appropriate and integrates with the adjacent urban areas. The site's location is in relatively close proximity to Wanaka's town centre and will enable the provision of additional housing choice in a logical, integrated location. The proposed site-specific rule package, complemented by the notified Low Density and Large Lot Residential provisions, will enable a well-designed and attractive urban area to be created, with a reduction in density and an increase in open space towards the interface of the proposed urban-rural boundary and along ridgelines. The proposed requirement to secure long-term public recreational access to the site's walking and cycle trails further emphasises the proposal's consistency with the proposed Plan's urban growth framework. The proposal enables a large portion of the site to be retained for recreational biking and walking activities within the context of a rural environment, with the balance area developed for residential purposes. The location of the proposal is entirely consistent with enabling Ngai Tahu members' rights and interests to be realised.

Theme Two – Outstanding Natural Landscapes

- 75 Strategic **Objective 3.2.5.1** seeks to protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development, and to minimise the adverse landscape effect of development in specified Rural Landscapes. New development is to be directed into areas that have the potential to absorb change without detracting from landscape or visual amenity values (**Objective 3.2.5.3**). A key method for achieving these objectives is to identify ONLs and ONFs on the planning maps.
- 76 Chapter 6 provides further guidance on landscape outcomes for the District. **Objectives 6.3.1** and **6.3.4** again emphasise the need to protect ONLs from inappropriate subdivision, and development (directly reflecting s.6(b)), with supporting policies noting that development within the ONL is ‘inappropriate in almost all locations, meaning successful applications will be exceptional cases’. Urban development is to be avoided in the Rural Zones, with UGBs to avoid impinging on ONLs.
- 77 The policies recognise that farming is an anticipated component of many ONL areas, albeit with an emphasis on pastoral uses rather than forestry. **Policy 6.3.1.9** seeks specifically to “*ensure the District’s distinctive landscapes are not degraded by forestry and timber harvesting activities*”. The Chapter 6 provisions, combined with those in Chapter 34 and its single Objective and associated **Policy 34.2.1.1** to “*avoid the further spread of identified wilding tree species by prohibiting the planting of identified species*”, make ongoing use of the site for economic return virtually impossible under the proposed planning framework. Given the directive policy context, harvesting of existing forest (half of which is in ONL) is going to be challenging to consent, its replanting of the current species is prohibited, and yet the retention of such exotic trees is also a matter that the Plan resists.
- 78 The combination of outcomes sought for ONLs, rural zones, and forestry are therefore extremely problematic for the block, especially when set against its compensatory purpose under the Treaty of Waitangi. The proposed framework sought by the submitter seeks to provide a pathway forward.
- 79 The northern portion of the site is recognised in the Proposed Plan as meeting ONL criteria, with the southwestern slopes proposed as a ‘Rural Landscape Classification’, and the south-eastern area zoned for residential purposes. This identification is explored in the evidence of Mr Field, who has confirmed that the northern part of the site meets ONL criteria, albeit with some amendment to the ONL/ RLC boundary as a result of his more detailed site-specific assessment. The ONL/ RLC boundary is further amended taking a broader balancing

assessment under Part 2 and the complementary rule package that is focussed on managing potential visual effects in the Large Lot Residential zone. The proposed framework is consistent with the Plan's ONL outcomes through the avoidance of development in the northern area where landscape values are not compatible with such. Conversely residential development is facilitated in areas that are less sensitive to visual effects. The removal of forestry is an inherent component of residential development, therefore the removal of wilding species will be facilitated over part of the site. The long-term future of the balance forest area is subject to future management decisions of the entity that ultimately takes ownership of this balance area, where there is a challenge between the recreational values that the forest provides, its identification as having ONL value under its current forested condition, and the Plan's direction against forestry in ONLs.

Theme Three – Iwi Values

- 80 Chapter 3 contains the **Goal 3.2.7** that the "*Council will act in accordance with the principles of the Treaty of Waitangi and in partnership with Ngai Tahu*". This goal is to be achieved through two primary objectives. **Objective 3.2.7.1** is to "*protect Ngai Tahu values, rights and interests, including taonga species and habitats, and wahi tupuna*", and **Objective 3.2.7.2** to "*enable the expression of kaitiakitanga by providing meaningful collaboration with Ngai Tahu in resource management decision making and implementation*".
- 81 These objectives are added to through Chapter 5 which sets out the key issues, outcomes, and relationship sought by Ngai Tahu in the District. Of particular relevance to this proposal is **Objective 5.4.4** that seeks to enable the sustainable use of Maori land in a manner consistent with their economic, cultural and social aspirations.
- 82 The notified Plan provisions are not considered to achieve these objectives, with the proposed rural zoning with ONL overlay and associated restrictive rule packages not providing for the rights and interests of the site's maori landowners. Nor do the provisions recognise the purpose of the block as compensation to provide for ongoing economic wellbeing. The proposed zone pattern sought by the submitter is considered to achieve a more appropriate balance whereby the owners are able to derive some economic return, whilst concurrently maintaining the landscape values contained in the most visually sensitive part of the site. It is noted that as the site is a replacement block for an earlier reserve it does not contain any known sites of waahi tapu, wahi taonga, or areas of specific cultural value.
- 83 On balance, it is considered that the proposal is consistent with section 32(3)(c) of the Act. It better achieves the proposed Plan's objective framework than the zone pattern as notified

and enables careful urban growth in an appropriate location whilst concurrently maintaining landscape values, securing recreational access, and enabling the interests of the site's maori owners to be met.

Section 32 (1) (b) (iii) – summary of the reasons for deciding on the provisions in the submission

- 84 The reasons for deciding on the provisions in the submission are summarised as follows:
- 84.1 the purpose of the block for Treaty settlement purposes is to provide appropriate compensation for the loss of a separate block and to meet the original intent of the block to provide for the wellbeing and economic sustenance of its maori landowners;
- 84.2 The proposed Plan provisions render the prospect of meeting economic needs virtually impossible. Harvesting the existing forest is a fully discretionary activity with a strong 'exceptional case' test that needs to be overcome and replanting with standard plantation species is a prohibited activity. The grazing yield of an unirrigated ex-forest block is minimal;
- 84.3 The proposed rural zoning provides no method for securing public access to the existing cycle and walkway trail network;
- 84.4 It is very unlikely that a resource consent application for residential development could succeed under the current planning framework with the site zoned for rural purposes, and with an ONL over the northern half;
- 84.5 The proposal provides for a policy framework which would enable the zoning to take place in a manner which is consistent with the objective and policy framework in the proposed Plan;
- 84.6 The proposal reduces potential administration and compliance costs compared to the alternative of progressing urban growth via an ad hoc resource consent;
- 84.7 The proposed zoning creates a large 'notch' in Wanaka's future urban form, with the block to be bounded by residential development on three sides;
- 84.8 The proposed relief achieves a number of positive outcomes as follows:
- i) It enables the owners to obtain economic wellbeing in accordance with the block's compensatory purpose;

- ii) It enables a refined ONL boundary based on a detailed, site-specific, landscape assessment and Part 2 balancing considerations;
- iii) It enables the provision of further urban capacity and housing choice in a location that is surrounded by existing and proposed urban development;
- iv) Provides a mechanism for securing public access to the rural balance of the site;
- v) Provides a mechanism for developing a Structure Plan to ensure integration with adjacent urban areas;
- vi) Provides a rule package to manage visual effects in sensitive locations.

85 As such it is considered that the proposal better achieves the Plan's objectives and thereby Part 2 of the Act in a more efficient and effective manner than the framework as notified.

Landscape Assessment Matters

21.7.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone:

- 21.7.1.1** The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.
- 21.7.1.2** Existing vegetation that:
- a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,
 - b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:
 - as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and
 - as part of the permitted baseline.
- 21.7.1.3** Effects on landscape quality and character

In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:

- a. Physical attributes:
 - Geological, topographical, geographic elements in the context of whether these formative processes have a profound influence on landscape character;
 - Vegetation (exotic and indigenous);
 - The presence of waterbodies including lakes, rivers, streams, wetlands.
- b. Visual attributes:
 - Legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;
 - Aesthetic values including memorability and naturalness;
 - Transient values including values at certain times of the day or year;
 - Human influence and management – settlements, land management patterns, buildings, roads.

- c. Appreciation and cultural attributes:
- Whether the elements identified in (a) and (b) are shared and recognised;
 - Cultural and spiritual values for tangata whenua;
 - Historical and heritage associations.

The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.

- d. In the context of (a) to (c) above, the degree to which the proposed development will affect the existing landscape quality and character, including whether the proposed development accords with or degrades landscape quality and character, and to what degree.
- e. any proposed new boundaries will not give rise to artificial or unnatural lines (such as planting and fence lines) or otherwise degrade the landscape character.

21.7.1.4 Effects on visual amenity

In considering whether the potential visibility of the proposed development will maintain and enhance visual amenity, values the Council shall be satisfied that:

- a. the extent to which the proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places. In the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, cycling, equestrian and other means of access;
- b. the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;
- c. the proposal will be appropriately screened or hidden from view by elements that are in keeping with the character of the landscape;
- d. the proposed development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);
- e. structures will not be located where they will break the line and form of any ridges, hills and slopes;
- f. any roads, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.

21.7.1.5 Design and density of Development

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);
- b. there is merit in clustering the proposed building(s) or building platform(s) within areas that are least sensitive to change;
- c. development, including access, is located within the parts of the site where it would be least visible from public and private locations;

- d. development, including access, is located in the parts of the site where it has the least impact on landscape character.

21.7.1.6 Cumulative effects of subdivision and development on the landscape

Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded:

- a. the landscape quality or character; or,
- b. the visual amenity values of the landscape.

The Council shall be satisfied the proposed development, in combination with these factors will not further adversely affect the landscape quality, character, or visual amenity values.

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are inappropriate in many locations:

21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.

21.7.2.2 Existing vegetation that:

- a. was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,
- b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:
 - as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and
 - as part of the permitted baseline.

21.7.2.3 Effects on landscape quality and character:

The following shall be taken into account:

- a. where the site is adjacent to an Outstanding Natural Feature or Landscape, whether and the extent to which the proposed development will adversely affect the quality and character of the adjacent Outstanding Natural Feature or Landscape;
- b. whether and the extent to which the scale and nature of the proposed development will degrade the quality and character of the surrounding Rural Landscape;
- c. whether the design and any landscaping would be compatible with or would enhance the quality and character of the Rural Landscape.

21.7.2.4 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:

- a. the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access;
- b. the proposed development is likely to be visually prominent such that it detracts from private views;
- c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations;
- d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations;
- e. any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns;
- f. boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.

21.7.2.5 Design and density of development:

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);
- b. there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change;
- c. development, including access, is located within the parts of the site where they will be least visible from public and private locations;
- d. development, including access, is located in the parts of the site where they will have the least impact on landscape character.

21.7.2.6 Tangata Whenua, biodiversity and geological values:

- a. whether and to what extent the proposed development will degrade Tangata Whenua values including Tōpuni or nohoanga, indigenous biodiversity, geological or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have.

The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.

21.7.2.7 Cumulative effects of development on the landscape:

Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

- a. the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape.
- b. where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.

21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)

21.7.3.1 In the case of a proposed residential activity or specific development, whether a specific building design, rather than nominating a building platform, helps demonstrate whether the proposed development is appropriate.

21.7.3.2 Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.

21.7.3.3 In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:

- a. whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves;
- b. whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;
- c. any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;
- d. any opportunities to retire marginal farming land and revert it to indigenous vegetation;
- e. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;
- f. whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.