

Before the Hearing Panel

Under the Resource Management Act 1991

In the matter of submissions on the Te Pūtahi Ladies Mile Plan Variation

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**Statement of evidence of Megan Justice**

20 October 2023

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**anderson  
lloyd.**

## **Qualifications and experience**

- 1 My name is Megan Justice. I hold a Masters degree in Regional and Resource Planning from Otago University, obtained in 1999 and I am a full member of the New Zealand Planning Institute. I am a certified Resource Management Act decision maker. I am a planning consultant with the firm Taylor Planning Limited, which practices as a planning and environmental consultancy primarily within the South Island of New Zealand.
- 2 I have been engaged in the field of environmental planning for 23 years. My experience includes a mix of local authority, Government and consultancy resource management work. In recent years, this experience has retained a particular emphasis on providing consultancy advice with respect to Regional Policy Statements, Unitary and District Plan review processes, plan changes, designations, resource consents and environmental effects assessments. The focus of my experience is with land development and various infrastructure activities. This includes extensive experience with large-scale projects involving inputs from a multidisciplinary team, many of which have been located within the Queenstown Lakes District.
- 3 An outline of projects in which I have provided planning advice in recent times is included as Appendix A.
- 4 I have been asked to provide evidence by Maryhill Limited (“**MHL or submitter**”) with respect to Te Pūtahi Ladies Mile Plan Variation to the Proposed Queenstown Lakes District Plan.

## **Code of Conduct for Expert Witnesses**

- 5 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with that Code and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **Scope of evidence**

- 6 In preparing this evidence I have reviewed the following reports and statements:
  - (a) The Te Pūtahi Ladies Mile section 32 Report Analysis Report, dated 27 April 2023;

- (b) The Section 42A Hearing Report, dated 29<sup>th</sup> September 2023, and the associated Te Pūtahi Ladies Mile Zone (“**TPLM Zone**”) provisions.
  - (c) The Evidence in Chief of Mr C Shields, dated 28 September 2023;
  - (d) The Evidence in Chief of Ms A Prestidge, dated 28 September 2023;
  - (e) The Evidence in Chief of Ms S Fairgray, dated 28 September 2023;
  - (f) The Evidence in Chief of Ms N Hampson, dated 28 September 2023.
- 7 I have prepared this evidence in relation to the Rules and Standards that are proposed to apply to the TPLM Zone.

### **Introduction to Maryhill Limited**

- 8 The Submitter is an experienced residential land developer. The directors and management team of MHL has undertaken large scale, comprehensive residential re-zoning and subdivision projects, and has built approximately 800 residential units within the Queenstown Lakes District. These developments include Shotover Country Special Zone and Special Housing Area.
- 9 MHL owns a large proportion of the proposed TPLM variation land. This landholding is proposed to be zoned the following under the proposed TPLM Zone:
- (a) Approximately 12 hectares within the High Density Residential Precinct (“HDR Precinct”), Sub Area E;
  - (b) Approximately 3 hectares within the Medium Density Residential Precinct (“MDR Precinct”), Sub Area B;
  - (c) Approximately 0.4 hectares within the Glenpanel Precinct”), Sub Area B.
- 10 MHL also owns land adjoining the proposed TPLM Zone. A plan depicting MHL’s landholdings is attached to my evidence as **Appendix B**.
- 11 MHL’s submission on the Variation describes its general support for the rezoning, including the engagement undertaken by the Council with the community in the development of the Master Plan and the Variation. However, it remains concerned over the feasibility of the development outcomes required by the proposed TPLM Zone provisions, particularly in

relation to minimum density requirements and the highly prescriptive nature of the provisions and associated Structure Plan.

### **Submission Points Supported**

- 12 The Section 42A (“**s42A**”) report author has recommended that some of MHLs submission points be accepted. These include:
  - (a) Recommending minor amendments to section 49.1 Zone Purpose to incorporate recognition that the zone enables community and commercial activities that support the residential activities, and that it enables a range of residential densities.
  - (b) A new policy 49.2.5.6 is recommended to enable Residential Visitor Accommodation within the Commercial Precinct and the Glenpanel Precinct.
  - (c) Policy 49.2.7.12 is recommended to be amended to remove the requirement to provide ‘privacy’, which is a requirement that would be difficult to measure compliance with. The policy now requires that a reasonable level of privacy be provided.
  - (d) Rule 49.4.33 has been amended to provide for Visitor Accommodation as a Discretionary Activity (rather than Non-complying) within the Glenpanel and Commercial Precincts.
  - (e) An amendment to the note at the end of Rule 49.4.4 is recommended to clarify that the rule applies to all forms of residential units, including attached and semi attached units.
  - (f) Adding “Residential” to the heading of the standard 49.5.16 to clarify that this standard only applies to residential density.
  - (g) Changing the activity status for a building that exceeds the maximum number of storeys shown on the Structure Plan from Non-complying to Discretionary (Rule 49.5.41.1) within the Glenpanel Precinct and Commercial Precinct.
  
- 13 I agree with the recommending officer’s recommendations regarding the suggested changes outlined above as they provide additional clarity for the interpretation of the provisions. These changes also enable some additional activities within the Glenpanel and Commercial Precincts and change the activity status that applies when the maximum building storeys standard is not achieved. I agree with the s42A report author (relying on the evidence

of Ms Fairgray)<sup>1</sup> that these changes will provide additional land use options that may assist with the economic viability of development. These changes will assist in achieving the proposed policies for these two precincts (Policies 49.2.3.1 and 49.2.4.1) which seek to provide small-scale commercial activities to serve the day to day needs of the local community.

### **Residential Density Minima**

- 14 MHL's submission sought changes to the minimum requirement for residential density prescribed for the High-Density Residential ("HDR") Precinct and the Medium Density Residential ("MDR") Precinct. MHL is concerned that the minimum density required within these precincts is:
- (a) Not proven to be in demand by the community, meaning developers may be unwilling to develop the land; and
  - (b) Will not enable a lower density of development at the early stages of development is likely required to start the development momentum for the zone and commence the transition to higher densities required for the transport mode shift.
- 15 In its submission, MHL sought that the minimum density standard be amended as follows:
- (a) Standard 49.5.16.1 In the Medium Density Residential Precinct – development shall achieve an average density of 40 ~~–48~~ residential units per hectare across the gross developable area of a ~~the~~ site.
  - (b) Standard 49.5.16.2 In the High Density Residential Precinct development shall achieve an average density of 40 ~~60~~ ~~–72~~ residential units per hectare across the gross developable area of a ~~the~~ site.
- 16 This submission has not been accepted by the s42A report author, who states that the minima:<sup>2</sup>
- (a) Will ensure a range of typologies and unit sizes, encouraging diversity;

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<sup>1</sup> Section 42A report, dated 28 September 2023, 11.240 and 11.242.

<sup>2</sup> Section 42A report, dated 28 September 2023, paragraph 11.188.

- (b) Will enhance a transport modal shift (alongside the traffic infrastructure updates and activities and the development of facilities within the zone);
- (c) Is the most efficient means of utilising the finite land resources within the Whakatipu Basin.

17 The s42A report largely dismisses the submissions raising concerns about the minimum density requirements of the MDR Precinct and the HDR Precinct, as being driven by “an individual developer’s holding costs”.<sup>3</sup> Ms Fairgray concedes that the minimum densities are relatively high in relation to general suburban development patterns in Queenstown<sup>4</sup>, and that the market for this type of development is likely to become more feasible in the medium to long-term<sup>5</sup>. In my view, dismissing the concerns raised by those parties who will deliver the housing development outcomes sought via this variation is concerning, particularly when the concerns being raised are aligned, as is the case for this variation.

18 I understand that a key factor for the density promulgated in the notified variation is to facilitate a mode shift in transportation choices (from car to public and active transport choices) for the eventual residents of the TPLM Zone. This premise is described in the evidence of Mr Shields, who states that:

*As demonstrated in the Transport Strategy at least 40 to 60 dwellings/Ha are needed to support a viable public transport network and hence deliver mode choice. International research indicates that at 40 units/Ha, there is a 20% reduction in vehicle trips compared to 20 units/Ha and at 60 units/Ha there is a 33% reduction compared to 20 units Ha. Therefore, I consider that the medium and high density proposed within TPLM Variation is required in order to support a viable public transport network and deliver mode choice for residents and visitors.<sup>6</sup>*

19 Mr Stalker has described the hesitations he has with developing to the densities noted in the variation. In my view, if the developers, particularly those who are very experienced at undertaking large scale development of the nature required to realise the aspirations of the TPLM Zone, do not

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<sup>3</sup> Section 42A report, dated 28 September 2023, paragraph 11.191.

<sup>4</sup> Evidence in Chief of Ms Fairgray dated 28 September 2023, paragraph 101.

<sup>5</sup> Evidence in Chief of Ms Fairgray dated 28 September 2023, paragraph 96.

<sup>6</sup> Evidence in chief of Mr C Shields, dated 29 September 2023, paragraph 33.

consider that development within the strict parameters required by this zone is feasible, there is a real risk that no development will occur.

- 20 While I applaud the aspirations of the variation to drive a change in the way housing is provided in the district, the approach for achieving these outcomes is experimental for this district. Also, driving a change in housing choice preference to higher density living typologies<sup>7</sup> and reducing car ownership will take time. For these reasons, I am concerned that the rigidity of the provisions may hinder development within the TPLM zone.
- 21 On the basis of Mr Shield's evidence, there is a range of residential density that is expected to result in a mode shift, which is between 40 – 60 units per hectare. Therefore, the requirement for densities ranging between 60 – 72 units / hectare does not appear to be justified to facilitate the mode shift in transportation choice, and as Mr Stalker has stated, building to the highest densities sought in the TPLM Zone less cost effective per m<sup>2</sup>.
- 22 I consider that the following approach to managing density will provide the necessary flexibility to encourage development in the zone, while still achieving the density levels Mr Shield's considers necessary to facilitate a mode shift in transport choices:
- (a) requiring development to achieve an **average density within the range of 40 – 48** units per hectare in the Medium Density Residential Precinct; and
  - (b) requiring development to achieve an **average density with the range of 45 - 60 units** per hectare in the High Density Residential Precinct.
  - (c) Changing the activity status for not achieving the density standards from Non-Complying to **Discretionary**.
- 23 Therefore, I consider that rule 49.5.16 should be amended as follows:

*Residential Density*

49.5.16.1 *In the Medium Density Residential Precinct, development shall achieve an average density ~~of between~~ 40 – 48 residential units per hectare across the gross developable area of the site.*

49.5.16.2 *In the High Density Residential Precinct, development shall achieve an average density ~~of between~~ 45 - 60—72*

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<sup>7</sup> Evidence in Chief of Ms Fairgray dated 28 September 2023, paragraph 96.

*residential units per hectare across the gross developable area of the site.*

- 24 Under this approach, a minimum development density will be required that aligns with the requirements for a transportation mode shift that Mr Shields has referred to.
- 25 The recommended changes that I consider are appropriate will, in my view, enable the first stages of development to develop to a density which is better aligned with the market expectations and demand, as outlined by Mr Stalker. Then, in the MDR Precinct, subsequent development has the ability to increase density outcomes to achieve the overall average. I consider that this more flexible approach will still deliver a range of housing typologies, in combination with the Low Density Residential Precinct and existing development on the south side of SH6 and facilitate a modal shift.<sup>8</sup>
- 26 In my view, the amendments I consider are necessary to the density requirements would continue to achieve Policy 1(a) of the NPS—UD, which requires planning decisions to contribute to a well-functioning urban environments, which, at a minimum have or enable a variety of homes that meet the needs, in terms of type, price, and location, of different households.<sup>9</sup> A range of densities will still be required across the zone, which will provide for a range of housing typologies and allow for variety in price.
- 27 I consider that the notified density minima will present a barrier to development. The minima density requirements go beyond what is required to facilitate a transportation mode shift to public and active modes of transport, based on the evidence of Mr Shields. I consider that the requirement for an average density for the MDR Print and HDR Precinct will assist to facilitate the transportation outcomes, and the urban design outcomes envisaged for the zone, without discouraging development within the zone.

### **Prescription of Provisions and Structure Plan**

- 28 MHL’s submission raised concerns about the proposed rules being too prescriptive. MHL considers that these provisions overly dictate the specific details for built form before any detailed development and engineering planning has taken place. MHL is concerned that this approach will make it

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<sup>8</sup> Based on the density requirements set out in the evidence of Mr Shields, dated 28 September 2023.

<sup>9</sup> Section 42A report, dated 28 September 2023, paragraph 11.191.



difficult to comply with the Structure Plan and rules when the 'on the ground' investigations and planning occurs.

- 29 I understand that this prescriptive approach is to ensure an environmental outcome for this zone that aligns with the TPLM Masterplan is realised. However, there is a risk that the heavily prescriptive structure plan and provisions will in fact prevent the development of the zone if a development cannot achieve the requirements of the structure plan and associated provisions. This situation would not become apparent until resource consent-level design work is undertaken.
- 30 In my experience, highly prescriptive planning outcomes embedded within a District Plan are often not able to be implemented once the detailed investigations and engineering designs for developments are undertaken. One example I have experience with is the Kingston Village Special Purpose Zone. This zone embedded at strict Structure Plan within the District Plan, which pre-determined the subdivision layout, roading layout, open space layout and density required at the zone. When the subdivision planning process commenced, it became evident that the roading layout required by the Structure Plan was not achievable (due to external constraints), and an alternative layout was proposed. This resulted in a development that did not align with the underlying Structure Plan sub-areas, and required a non-complying subdivision consent for an activity that provided the same environmental outcomes of the original plan change. Further, 217 non-complying land use consents were required to enable dwellings to be built on the residentially zoned lots created. These consents were required because none of the newly created lots matched the underlying Structure Plan, and as a result the rules intended to provide for residential uses as a permitted activity could not be complied with. This process was hugely inefficient and costly for all parties and did not result in any additional environmental gains.
- 31 In order to enable a seamless consenting regime for future developments at TPLM Zone, as much flexibility as possible should, in my view, be incorporated into the zone provisions. Similarly, in my experience, Structure Plans should be paired back as much as is possible to enable fluidity with design, whilst achieving the environmental outcomes sought. I acknowledge that this balance is difficult to achieve, and there will be situations where resource consents are required for works that cannot, for valid reasons, achieve the parameters. However, in these situations, an efficient consenting pathway should be enabled by the provisions. For these types of non-compliances, a discretionary or restricted discretionary activity status is preferable to a non-complying activity status. The non-

complying activity status should be preserved for those activities that are not anticipated in the zone.

32 Based on my experience implementing structure plans of this nature, I consider that some amendments can be made to the provisions to provide the flexibility necessary to account for on-the-ground issues that inevitably arise when development planning is underway. The changes I consider necessary to the provisions to ensure development will not be stymied by the provisions include:

(a) MDR Precinct and HDR Precinct Rule 49.4.6: *One residential unit per site within the Medium Density Residential Precinct and the High Density Residential Precinct, except that this rule shall not apply to a residential unit that is attached to residential units on other sites.*

Change activity status from NC to D.

(b) MDR Precinct and HDR Precinct Rule 49.4.22: *Activities not otherwise listed.*

Change activity status from NC to D.

(c) Table 2: Standards for the MDR and HDR Precincts 49.5.15: *Development shall be generally in accordance with ~~consistent~~ with the Structure Plan at 49.8, except that: ...*

Make amendment above and change activity status for non-compliance from NC to D.

(d) Table 2: Standards for the MDR and HDR Precincts 49.5.16: *Residential Density*

49.5.16.1 *In the Medium Density Residential Precinct, development shall achieve an average density ~~of~~ between 40 – 48 residential units per hectare across the gross developable area of the site;*

49.5.16.2 *In the High Density Residential Precinct, development shall achieve an average density ~~of~~ between 45 to 60–~~72~~ residential units per hectare across the gross developable area of the site.*

Make amendment above and change activity status for non-compliance from NC to D.

- (e) Table 2: Standards for the MDR and HDR Precincts 49.5.19: *Permeable surface* (Standards 49.5.19.1 and 49.5.19.2)

Change activity status for non-compliance from NC to D.

- (f) Table 2: Standards for the MDR and HDR Precincts 49.5.21.2: *Building Coverage: In the High Density Residential Precinct, a maximum of 70%.*

Change activity status for non-compliance from NC to D.

- (g) Subdivision Rule 27.7.28.2: *Subdivision that is inconsistent with Structure Plan in 27.13.XX, except as set out in Rule 27.7.28.3 and for the following:...*

Change the activity status for subdivision that is inconsistent with the Structure Plan from Non-complying to Discretionary.

### **Commercial Mixed Use**

- 33 MHL's submission sought changes to the HDR Precinct rules to provide for more commercial development. The submission sought amendments to provide greater flexibility for commercial, community, and other non-residential activities throughout the HDR Precinct. The requested change will provide a consenting pathway for small-scale commercial uses that are desirable within residential apartment style typologies. An example would be having a gym or Pilates studio within an apartment complex.

- 34 The changes sought to the provisions in the MHL submission that apply to non-residential activities included:

- (a) Rule 49.4.8 – Amending the maximum gross floor area for commercial activities in the HDR Precinct from 100m<sup>2</sup> to 300m<sup>2</sup>;
- (b) Including a new Discretionary activity rule for commercial activities greater than 300m<sup>2</sup> in the HDR Precinct.

- 35 MHL's submission also sought amendments to the following TPLM Zone-wide provision that relate to non-residential activities:

- (a) Rule 49.4.33 Amending the activity status for Visitor Accommodation from NC to D.

- 36 The s42A report author has recommended that these submission points be rejected, however, no reasons have been provided for rejecting the submission relating to enabling additional floor area for commercial

activities in the HDR Precinct. The s42A report author has recommended that Visitor Accommodation be provided for within the Glenpanel Precinct and the Commercial Precinct, as this may enhance the commercial take-up of other activities in these precincts.<sup>10</sup>

- 37 As I have discussed elsewhere in my evidence, MHL remains concerned that the rigidity of the provisions may stymie development within the zone. Limiting non-residential activities to 100m<sup>2</sup> (for example 10m x 10m) per site within the HDR Precinct will limit the activities that can establish in this precinct. Increasing the maximum permitted gross floor area for commercial activities within the HDR Precinct will increase opportunities for commercial activities such as a gym within the apartment complexes envisaged within the precinct.
- 38 However, based on the evidence of Ms Hampson, I consider that having 300m<sup>2</sup> gross floor area of commercial space being permitted may detract from the larger commercial areas and centres in Frankton and central Queenstown.<sup>11</sup> Therefore, in order to provide some limited scope of larger commercial activities, such as a gym to service occupants of an apartment block, Rule 49.4.8 could be amended to provide for commercial activities over 100m<sup>2</sup> and less than 300m<sup>2</sup> as a Discretionary Activity. This would allow Council to consider the merits of the proposal, alongside any actual and potential adverse effects via a resource consent process. My suggested changes to Rule 49.4.8 are set out below:

*Rule 49.4.8*

49.4.8.1 *Commercial Activities comprising no more than 100m<sup>2</sup> of gross floor area per site in the High Density Residential Precinct - Permitted*

49.4.8.2 *Commercial Activities comprising greater than 100m<sup>2</sup> and less than 300m<sup>2</sup> of gross floor area per site in the High Density Residential Precinct - Discretionary*

## **Storage Facilities**

- 39 MHL's submission sought an enabling activity status for a commercial storage facility activity to be located on the northern edge of the TPLM

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<sup>10</sup> Section 42A report, dated 28 September 2023, paragraph 11.242.

<sup>11</sup> Evidence in chief of Ms N Hampson, paragraph 16.

Zone, within the HDR precinct, Sub Area E. The submitter considered that commercial storage is complimentary to a zone that requires residential development at the density prescribed by this plan change. The s42A report has recommended that this relief be rejected, meaning this type of activity would be a non-complying activity (Rule 49.4.26: Service Activity<sup>12</sup>).

- 40 The submission sought a spatially defined 'storage zone' for this activity, which would limit where this type of activity could be undertaken in the zone. The 'storage zone' is approximately 5,000m<sup>2</sup>. Not all of this area is expected to be used for storage activities, however flexibility is considered necessary to determine the most appropriate layout or location for this use, in combination with residential development, when detailed development plans are underway. MHLs submission suggests a location for a storage facility, which is within the HDR Precinct, Sub-Area E (near the base of Slope Hill), as shown in Figure 1.



Figure 1: site sought for a storage activity in the MHL submission.

- 41 Commercial storage facilities are common features within urban areas, particularly in areas where smaller lot sizes and smaller residential units are prevalent. Given the restriction on car parking and garaging (implemented by the maximum car parking spaces standard), it is expected that having storage space available for residents within the TPLM Zone, within close proximity to the residential units, will assist with people transitioning to higher density living environments.
- 42 In my view, ensuring there is adequate storage space available for residents in TPLM Zone is important. The district is a desirable place to live for people who enjoy an active outdoors lifestyle. Many outdoor recreational activities require equipment, which will require storage. For instance, ski

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<sup>12</sup> Service Activity is defined in the Proposed District Plan as: Means the use of land and buildings for the primary purpose of the transport, storage, maintenance or repair of goods.

and snowboarding equipment, mountain bikes, kayaks, boats, golf clubs, camping equipment, caravans, motorhomes, recreational vehicles etc, and other household items. Storage of these types of large bulky items are unlikely to be accommodated by the requirement for 'Residential Storage' required via Standard 49.5.28, which requires 2m<sup>3</sup> of storage space per one bedroom, and additional storage space of 1m<sup>3</sup> for every additional bedroom.

- 43 Having the storage facility in close proximity to the residential development will provide easier access and reduce reliance on vehicle trips to access the facility. The proposed location will also not require residents driving across the Shotover Bridge to access their possessions, which is an outcome sought by the TPLM Transport Strategy<sup>13</sup>. In my view, enabling the establishment of commercial storage facilities within close proximity to the residential development at TPLM Zone will assist with achieving the density envisaged for this zone by providing additional storage for those concerned about a lack of space in the smaller apartments.
- 44 Therefore, I consider that it is appropriate for the area suggested by MHL to have an overlay (or other appropriate spatial layer mechanism) that identifies this area as being suitable for commercial storage activities, and an associated rule that provides for storage activities as a controlled activity in the HDR Precinct:

*Commercial storage facilities (including outdoor storage and buildings for the storage of commercial and residential goods) within the Storage Zone overlay. The matters of control are:*

- a. hours of operation;*
- b. parking, traffic and access;*
- c. noise.*

### **Stormwater Management and Provision of Infrastructure**

- 45 MHL submission raised concerns about how the cost of providing infrastructure services and shared community assets will be shared equally by all those making use of these facilities.
- 46 The Structure Plan dictates that the following features must be provided in specified locations:

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<sup>13</sup> Te Putahi Ladies Mile Masterplan Transport Strategy, Abley, dated 8.3.22.

- (a) Infrastructure including roads, crossing curtilage areas and stormwater management infrastructure;
- (b) Amenity Access Areas, one of which is 20m wide and the second is 10m wide;
- (c) Open Space areas;
- (d) A Community Park of between 1.5 – 2 hectares in area;
- (e) The retention of existing trees in specified locations and a landscape buffer area.

47 The author of the s42A report author has proposed changes to the notified provisions for stormwater management. These changes would require a statement and supporting plans that demonstrate how stormwater will be managed within a centralised integrated stormwater management system, for land north of SH6. The information requirements include details on how the stormwater management strategies can apply to multiple properties, and how the system will handle stormwater flows from Slope Hill, which is outside of the TPLM zone. Specifically, the solution for Slope Hill is required to provide 1 to 4 facilities, such as detention basins and/or soakage devices, as well as coordinated overflow paths through development lots. The manner by which land at the toe of Slope Hill will be made available for stormwater management is also a specific information requirement to be addressed at the time of subdivision.<sup>14</sup>

48 The specific location of the 'land at the toe of Slope Hill' is not identified on the Structure Plan, however, the WSP report attached to Ms Prestidge's evidence<sup>15</sup> includes the following plan identifying an indicative location for stormwater management by the area outlined in green with green dots shown in the figure below:

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<sup>14</sup> Section 42A report, dated 28 September 2023, page 232.

<sup>15</sup> Evidence in chief of Ms Prestidge, dated 28 September 2023, Appendix A.

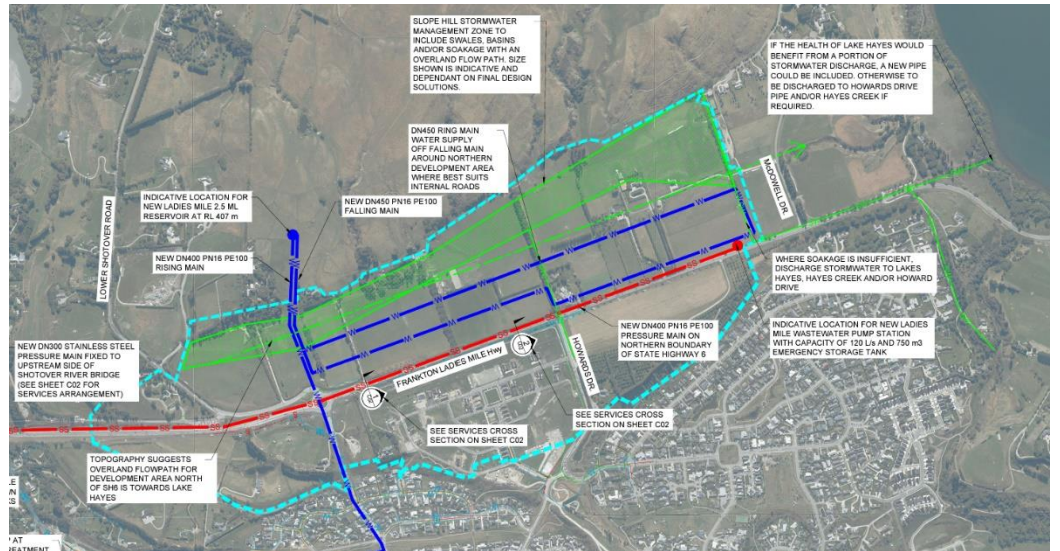


Figure 2: Exert from WSP Report, attached to the Evidence in Chief of Ms Prestidge.

- 49 The approach of promoting co-ordination across all development blocks for the provisions of services, and other amenities is not opposed in principle by the submitter. However, based on the layout of the Structure Plan, some land owners will be burdened to a greater extent than others with providing land for these shared assets.
- 50 It is not clear how the costs incurred, either through building the infrastructure or providing land for community amenity areas and infrastructure areas, will be equally shared across the developable land. The Subdivision Assessment Matter 27.9.8.1 (c)(ii)(i)(iii) below is the only indication that cost sharing is appropriate:

*Consideration and contribution to (where appropriate) infrastructure that is necessary to both service the development but may also benefit or service the wider community and future development on adjoining or nearby land where subdivision and/or development of that land would rely on the bulk lots for infrastructure.*

- 51 MHL's land is heavily encumbered by these shared assets, with the majority of the Community Park on its land, along with a row of protected trees, a 20m wide Amenity Access Area and land required for roading and intersection upgrades, as well as the possible stormwater management area along the toe of Slope Hill. The methodology for managing the fair and equitable locating of assets so that no single landowner is overly burdened with contributing land for these assets should be clearly set out as part of the Variation documentation. Having clarity of this process, and the timing for this process is critical, as Mr Stalker has discussed, when preparing a business case for developments.



- 52 The Community Park is located within the area identified for stormwater management facilities, at the base of Slope Hill. Enabling reserve land that is required for the community assets such as recreational parks land and land for stormwater management, to have a dual purpose when vested as reserve, will enable the efficient use of this land.

### **Section 32AA Evaluation**

- 53 A further evaluation is required (under s32AA) of proposed changes to the notified provisions. RMA s32(1)(b) requires an analysis of whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
- (i) identifying other reasonably practicable options for achieving the objectives; and
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the relevant objectives.
- 54 The amendments I have sought to the notified provisions will, in my view assist to achieve the objectives of the TPLM Zone, by providing greater flexibility in the provisions to ensure development of the zone, as envisaged by the TPLM objectives, can occur. Therefore, I consider that the amendments will be the most appropriate way to achieve the relevant TPLM objectives.

### **Conclusion**

- 55 The TPLM Variation is a courageous undertaking by the Council, and I agree with the outcomes sought to be achieved by the variation which include addressing population growth, housing demands and housing affordability in and around Queenstown.<sup>16</sup>
- 56 Based on my experience implementing prescriptive structure plans and associated provisions, which by their nature cannot expect to account for all the nuances and hurdles that arise when the more detailed design for projects is undertaken, I consider that some level of flexibility is required in the provisions. The current provisions will likely result in resource consent applications for subdivision and development at the zone that are non-complying activities and difficult to consent.

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<sup>16</sup> I refer to the summary of population growth, housing demand and affordability in the Section 42A report, paragraphs 6.2 – 6.10.

- 57 Embedding some flexibility into the provisions is a means of acknowledging that a lot of the problem solving is yet to occur, and this can be addressed at the resource consent stage of development. In my view, providing a set of provisions that can allow for some level of fluidity will remove a barrier to development within the zone.
- 58 Therefore, the amendments to the provisions I consider to be necessary will result in rules and methods that are the most appropriate for achieving the TPLM Zone objectives, and higher order objectives of the Proposed District Plan and the National Policy Statement for Urban Development. In my view, the relief sought is the most appropriate way to achieve the purpose of the Act.

Dated this 20<sup>th</sup> day of October 2023

**Megan Justice**

# APPENDIX A

## Summary of Relevant Recent Project Experience

- Mackenzie District Council – planner assisting with district plan review.
- Aurora Energy, PowerNet Limited and Network Waitaki Limited, - preparing submissions and joint planning evidence for the Otago Regional Council Proposed Regional Policy Statement process.
- PowerNet Limited – preparing submissions for district plan review processes in Dunedin City District, Invercargill District and Clutha District and Queenstown Lakes District, and attendance at the relevant Council hearings.
- Kingston Village Limited – preparing submissions on the Proposed Queenstown Lakes District Plan, and presenting planning evidence at hearings.
- Queenstown Lakes District Council – preparation of Plan Change 50 s32 evaluation to rezone land in central Queenstown in the Queenstown Lakes District Plan.
- PowerNet Limited – preparing Notices of Requirement for numerous designations in Clutha District Council, Central Otago District Council, Dunedin City District, Invercargill District and Clutha District, Waitaki District, and attendance at the relevant Council hearings.
- Port Marlborough New Zealand Limited – submissions and further submissions and evidence, and preparation of planning provisions on the Proposed Marlborough Environment Plan.
- Port Marlborough New Zealand - preparation of resource consent application for extension to Waikawa Marina.
- Queenstown Lakes District Council – preparing subdivision applications for Lakeview site, central Queenstown.
- Kingston Village Limited - preparing subdivision and landuse resource consent applications for 217 lot residential development at Kingston.
- Otago Regional Council – preparation of a Notice of Requirement to designate the site for the Central City Bus Hub.
- Ryman Healthcare Limited – preparing submissions planning provisions specific to retirement villages, and evidence for the Proposed Christchurch Replacement District Plan process.
- HW Richardson Group – preparing evidence on the Proposed Invercargill District Plan.
- Ryman Healthcare Limited – involved with preparing planning provisions specific to retirement villages for the Auckland Unitary Plan and preparing evidence on the Auckland Unitary Plan.
- Ryman Healthcare Limited – obtain land use and regional level resource consents for the Howick Retirement Village, Auckland City.

- Ryman Healthcare Limited – obtain subdivision, land use and regional level resource consents for the Rangiora Retirement Village, Rangiora.
- Otago Regional Council – submissions, further submissions and notices of requirement for the Dunedin City Council Proposed Plan, and attendance at the relevant Council hearings.
- Queenstown Lakes District Council – contracted to process resource consent applications.

## **APPENDIX B**

MHL's landholdings (shown in pink)  
Overlaid on the TPLM Zone Plan

# Te Pūtahi Ladies Mile Zoning Plan

