

**BEFORE THE INDEPENDENT HEARING PANEL APPOINTED BY THE  
QUEENSTOWN LAKES DISTRICT COUNCIL**

**UNDER** the Resource Management Act 1991 (RMA)  
**IN THE MATTER** of the Te Pūtahi Ladies Mile Plan Variation in accordance  
with section 80B and 80C, and Part 5 of Schedule 1 of the  
Resource Management Act 1991.

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**OPENING LEGAL SUBMISSIONS ON BEHALF OF QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**24 November 2023**

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## MAY IT PLEASE THE HEARING PANEL

### INTRODCUTION

- 1 These submissions are presented on behalf of Queenstown Lakes District Council (**QLDC** or **Council**) in respect of the proposed Te Pūtahi Ladies Mile Plan Variation (**TPLM Variation**) to the Council's Proposed District Plan (**PDP**).
- 2 The TPLM Variation represents a compelling opportunity for the Council to help address the significant levels of population growth in the Queenstown Lakes District (**District**). In the last two decades, the District has become the most expensive place in New Zealand to live.<sup>1</sup>
- 3 Over recent years there has been considerable focus on the potential for urbanisation of the Te Pūtahi Ladies Mile area. Given the housing pressures facing the district, the proximity to Shotover Country, Lakes Hayes Estate, Frankton and other suburbs of wider Queenstown, and its favourable typography, Te Pūtahi Ladies Mile has long been an area earmarked for potential urban expansion.
- 4 The desirability of development in Te Pūtahi Ladies Mile is evidenced by the multiple attempts by various landowners to obtain approvals for urban development, both through Special Housing Accord processes (three of which were rejected by the Council), and under the subsequent application under the COVID-19 Recovery (Fast -track Consenting) Act 2020 for the proposed Flints Park development.
- 5 QLDC has recognised the potential of Te Pūtahi Ladies Mile, the pressures for development and the need to comprehensively plan for its future development. Rather than allowing development to occur in an ad hoc manner, it has sought to plan for growth in an integrated manner by first undertaking a master-planning exercise, and more recently through the TPLM Variation.
- 6 While the potential of Te Pūtahi Ladies Mile has long been recognised, its urbanisation is not without challenges. There are existing transportation capacity issues along the State Highway 6 (**SH6**) corridor that runs through Ladies Mile; a need to better connect the area with

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<sup>1</sup> s42A report, paragraphs 6.3 and 6.6. The evidence of Phillip Osborne for Anna Hutchison Family Trust highlights that the average house price in Queenstown Lakes District is \$1.7m which is almost double the national average of \$939k (at paragraph 13).

- existing areas of development; and a lack of commercial activities, community facilities and other urban amenities in proximity to the area.
- 7 Further, its place as a perceived 'rural gateway' and location close to sensitive receiving environments, including the Slope Hill Outstanding Natural Feature (**ONF**) and Lake Hayes / Waiwhakaata require very careful consideration.
  - 8 These matters (amongst many others) have all been taken into account through the Masterplan, the notified TPLM Variation, the submissions and further submissions, the Council's evidence and now the provisions as currently recommended to the Hearing Panel by Mr Brown.
  - 9 The Council acknowledges that the TPLM Variation represents a departure from how the Council has previously planned for growth. The TPLM Variation requires minimum densities of residential development. It relies on more use of active transport and public transport modes of travel. The TPLM Variation is also being processed using the Streamlined Planning Process (**SPP**) under the Resource Management Act 1991 (**RMA**) following the Minister for the Environment's (**Minister**) directions that were gazetted on 30 March 2023). The SPP is a process that to date has not been used in the District.
  - 10 The Council's position is that this change in approach is required in order to provide sufficient opportunities for development of housing and business land to ensure a "well-functioning urban environment"; more variety in housing typologies; and to ultimately ensure that the most is made of the opportunity represented by the rezoning of Te Pūtahi Ladies Mile.
  - 11 The Council's evidence has given careful consideration to the various matters raised in submissions and further submissions on the TPLM Variation. A range of amendments have been made to the provisions in response to those submissions.
  - 12 The Council welcomes the opportunity to now test the evidence and looks forward to engaging with the Hearing Panel through the hearing of submissions and further submissions. Ultimately, that will ensure that the best is made of the opportunity presented by TPLM Variation and best assist the Hearing Panel in making its recommendations on the TPLM Variation to the Minister, who will have the final decision-making power in relation to the TPLM Variation.

## STRUCTURE OF THE LEGAL SUBMISSIONS

- 13 These submissions serve to assist the Panel in making its recommendations to the Minister. These submissions address:
- (a) An overview for the TPLM Variation;
  - (b) The statutory framework for the TPLM Variation and key legal issues (including the jurisdictional issues associated with some of the re-zoning requests);
  - (c) An overview of the matters agreed between the experts;
  - (d) Outstanding overarching issues;
  - (e) The rezoning requests; and
  - (f) Landowner specific issues.
- 14 Since the original s42A Report was prepared, Mr Brown has prepared an updated version of the TPLM Variation provisions in his rebuttal evidence. He will provide a further version incorporating changes arising from the responses to submitter questions at the commencement of the hearing (along with the updated Structure Plan and Zoning maps) and will address the Hearing Panel further on this as part of the presentation of his planning overview.
- 15 For the Hearing Panel's convenience, a map showing the land interests of those submitters that have called expert evidence in support of their submissions is also attached as **Appendix A**.
- 16 The Council also acknowledges the pre-hearing questions that the Hearing Panel has asked the Council witnesses to consider. The Council appreciates having received these in advance. Given that the Council witnesses will be appearing at the hearing from 4 December 2023, it intends to provide specific response to these questions at this time, although the themes of some of these questions have been addressed in these submissions.

## THE OVERVIEW FOR THE TPLM VARIATION

- 17 To enable increased housing supply, choice and affordability and also to provide for a range of complementary urban amenities and facilities, the TPLM Variation proposes the comprehensive rezoning of 120 hectares of land in the eastern corridor of Queenstown, from a mix of Rural, Rural

Lifestyle and Large Lot Residential A zoning to the Te Pūtahi Ladies Mile Zone (**TPLM Zone**).

- 18 If approved, the TPLM Zone will provide for development across the following different precincts:
- (a) The Low Density Residential (**LDR**) Precinct;
  - (b) The Medium Density Residential (**MDR**) Precinct;
  - (c) The High Density Residential (**HDR**) Precinct;
  - (d) The Open Space Precinct, providing for a significant recreational facility for the new and existing local communities;
  - (e) The Commercial Precinct, providing a new local centre for the new and existing local communities, and other communities in the Wider Wakatipu Basin; and
  - (f) The Glenpanel Precinct, providing a secondary commercial centre based on the historic Glenpanel Homestead.
- 19 The TPLM Variation also addresses the zoning of land to the south of SH6 outside of the identified precincts. It is proposed to be zoned Lower Density Suburban Residential (**LDSR Zone**) under the PDP, with Mr Brown recommending some amendments to the zoning in response to submissions (as is addressed further below).
- 20 The TPLM Variation provisions include a Structure Plan to guide the overall spatial layout of development. Mr Dun's evidence describes the key features, which include the treatment of SH6 as a gateway corridor, the primary collector road (collector Type A) running east to west through the development, the new community park, and two neighbourhood parks, the centrally located commercial centre, and the new recreation grounds on the Council owned site south of SH6.<sup>2</sup>
- 21 Mr Brown will provide a detailed planning overview of the TPLM Variation in his presentation to the Hearing Panel.

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<sup>2</sup> Evidence of Stuart Dun dated 29 September, at paragraph 48. While no schools are shown on the Structure Plan, the Ministry of Education has been involved in the TPLM Variation process, with the provisions providing for Education facilities and the location of future schools expected to be subject to a designation process.

## STATUTORY FRAMEWORK AND JURISDICTIONAL ISSUES

### Overview of the streamlined planning process

- 22 An overview of the SPP which the TPLM Variation is being considered under is set out in **Appendix B** for the Hearing Panel's reference and is not repeated here.

### The legal framework

- 23 Sections 72 to 77 of the RMA set out the legal framework in which the TPLM Variation has to be considered against. A summary of the requirements (including the requirements of evaluation reports under s32) was set out by the Environment Court in *Colonial Vineyard Limited v Marlborough District Council*.<sup>3</sup>
- 24 An updated summary of the district plan requirements that incorporates amendments that have been made to the relevant RMA provisions since *Colonial Vineyard*, is set out in **Appendix B** to these submissions. The statutory context is also set out in detail in section 7 of Mr Brown's s42A report.
- 25 In summary the key considerations for the Hearing Panel can be summarised as follows. The TPLM Variation must:
- (a) Accord with and assist QLDC to carry out its functions to achieve the purpose of the RMA.
  - (b) Accord with the direction given by the Minister. This includes a requirement to have regard to the Statement of Expectations in the Minister's direction for the SPP.<sup>4</sup>
  - (c) Give effect to any national policy statement, national planning standard and operative regional policy statement.
  - (d) Not be inconsistent with any regional plan.
  - (e) Have regard to the proposed regional policy statement, any management plans and strategies.
- 26 In terms of the s32 obligations, consider:

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<sup>3</sup> *Colonial Vineyard Limited v Marlborough District Council* [2014] NZEnvC 55.

<sup>4</sup> cl 83, Schedule 1 of the RMA. Under the Minister's direction, the Hearing Panel is required to submit the reports and documents required by clause 83(1)(a) to (g).

- (a) Whether each objective is the most appropriate way to achieve the purpose of the RMA;
  - (b) Whether the provisions of the TPLM Variation are the most appropriate way to achieve the objectives by identifying other reasonably practicable options for achieving the objectives; and assessing the efficiency and effectiveness of the provisions for achieving the objectives.
- 27 Mr Brown's s42A Report has considered the Part 2 obligations, and remainder of the statutory framework in detail which is not repeated here.
- 28 In terms of the application of Part 2, it is expected that the focus of the Hearing Panel's attention will be on how the TPLM Variation implements the provisions of the PDP and gives effect to the higher order directions which already implement Part 2. Given the strong direction to "give effect to" national policy statements (and the operative regional policy statement), it is worth briefly addressing the national policy statement directions.
- 29 Four national policy statements (**NPS**) have been identified as being relevant:
- (a) NPS for Urban Development (**NPS-UD**).
  - (b) NPS for Freshwater Management (**NPS-FW**).
  - (c) NPS for Highly Productive Land (**NPS-HPL**).
  - (d) NPS for Indigenous Biodiversity (**NPS-IB**).
- 30 The NPS-UD and its application to the TPLM Variation is critical. The ways in which the TPLM Variation give effect to the NPS-UD have been described in both the s32 report, and also Mr Brown's s42A Report. Achieving and enabling a *well-functioning urban environment* has been at the forefront of officers' mind during the development of the TPLM Variation.<sup>5</sup>
- 31 In terms of the NPS-FM, it requires freshwater to be managed in a way that gives effect to Te Mana o te Wai. The NPS-FM requires that first priority be given to the health and well-being of water. This fundamental

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<sup>5</sup> s42A Report, at paragraph 7.52.



concept has also been at the forefront of consideration, particularly in relation to how the TPLM Variation proposes to address stormwater.

- 32 The application of the NPS-HPL is also considered by Mr Brown in the s42A report (and in Appendix B). In short, the NPS-HPL does not apply to the TPLM Variation, due to the underlying existing zoning of land in the TPLM Variation Area, and the fact that it has been "identified for future urban development" pursuant to clause 1.3 of the NPS-HPL under the QLDC Spatial Plan 2021.<sup>6</sup>
- 33 The NPS-IB has been introduced since the TPLM Variation was notified. However, the TPLM must still give effect to the NPS-IB to the extent that submissions on the TPLM Variation provide scope to do so (and to the extent it is reasonably practicable). The application of the NPS-IB is considered further below in the context of the ecological effects of the TPLM Variation.

#### **Jurisdictional issues**

- 34 The Hearing Panel, before recommending any amendments to the TPLM Variation, must consider whether there is scope to make amendments. This includes both whether a submission is 'on' a plan change, and also whether the relief sought falls within the scope of submissions. The legal framework and case law principles applicable to these issues, are detailed in **Appendix B**.
- 35 It is a well-established principle, grounded in clause 6 of Schedule 1 of the RMA, that if a submission is not "on" a plan change, then the decision maker does not have jurisdiction to consider the submission.<sup>7</sup> In short, the case law requires that consideration to be given to:
- (a) Whether the relief sought in the challenged submission is incidental to, consequential upon, or (perhaps) directly connected to the TPLM Variation? (**First Limb**);

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<sup>6</sup> s42A Report, at paragraph 7.27-7.35.

<sup>7</sup> *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [19]. This test has been applied more recently, including since amendments to the RMA such as the insertion of s 32AA have been made. For example, see *Mackenzie v Tasman District Council* [2018] NZHC 2304 for a more recent High Court application of the test.

(b) Have potential submitters been given fair and adequate notice of what is proposed in the submission, or has their right to participate been removed? (**Second Limb**);

(the **Motor Machinists Test**).

- 36 It is submitted that these legal principles need careful application in the context of the SPP. That is, the *Motor Machinists Test*, in particular the Second Limb (prejudice to third parties), is heightened in the context of the SPP. Under a SPP there are no appeal rights against the Minister's decision on the TPLM Variation.<sup>8</sup> This elevates the importance of ensuring that a submission is "on" a proposed change, and providing for a real opportunity for participation.
- 37 Council submits there are two rezoning submissions that are not "on" the TPLM Variation, being the Anna Hutchinson Family Trust (**AHFT**) submission (submitter 107); and Mr and Mrs Dobb (submitter 37).
- 38 The Council also considers that the submissions by Glenpanel Development Limited (submitter 73) (**Glenpanel**) and Maryhill Limited (submitter 105) (**Maryhill**) which seek that the urban growth boundary (**UGB**) and/or the Slope Hill ONF be moved up Slope Hill are also out of scope.
- 39 For completeness, it is not Council's position that the requested rezoning of the Doolytle & Son Limited land (submitter 81) is out of scope, as was mistakenly mentioned in the s42A Report.<sup>9</sup>

#### *AHFT Submission*

- 40 The AHFT submission sought that the area to the west of the proposal be included within the TPLM Variation area as shown on **Appendix A (Extension Area)**.
- 41 AHFT is seeking that the Extension Area be rezoned from Wakatipu Basin Lifestyle Precinct (**WBLP**) to the TPLM Zone, including both

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<sup>8</sup> Appeal rights for the SPP are limited to clause 92 and 93, which provided a limited scope of appeal with regards to requirements, designations and heritage orders, none of which applies in the context of the TPLM Variation.

<sup>9</sup> Legal counsel for the Council has informed legal counsel for Doolytle & Son Limited of the Council's position (as a result of the memorandum filed on 6 November 2023 regarding procedural matters).

medium density precinct and low density precinct.<sup>10</sup> Council submits that this submission is not “on” the TPLM Variation for the following reasons.

*First Limb – Change to the status quo*

- 42 The TPLM Variation did not propose any changes to the Extension Area. Further, no land zoned WBLP is being rezoned by the TPLM Variation, there was no alteration to the status quo of the Extension Area. While incidental or consequential rezoning changes may be within scope, this submission would significantly change the TPLM Variation, proposing to increase the total land area by approximately 1/6<sup>th</sup>.
- 43 Of most importance however, is that the change proposed would require *substantial* s32 analysis. For example, the effects on the Shotover River, due to the Extension Area’s proximity to the river, would require assessment, as well as the impacts on the Shotover River ONF. It would also require the shifting of the UGB. The s32 report explicitly stated that “land outside the UGB would remain as per the status quo”.<sup>11</sup> The s32 report is intended to be relied upon by the public, and “inform affected persons of the comparative merits of that change”.<sup>12</sup>
- 44 While various expert evidence has been filed by AHFT, this is after the period for submissions has closed, and does not fill the lacuna of information for the public during the notification stage for the TPLM Variation.
- 45 The Council acknowledges that zoning extensions are not completely ruled out by the *Motor Machinists* test, noting that:<sup>13</sup>
- ...Incidental or consequential extensions of zoning changes proposed in a plan change are permissible, **provided that no substantial further s 32 analysis is required to inform affected persons of the comparative merits of that change...**
- (emphasis added)
- 46 Therefore while a zoning extension *may* not be ruled out under *Motor Machinists*, the substantial rezoning of a piece of land nearly 1/6<sup>th</sup> of the size of the TPLM Variation Area itself would require substantial s32 analysis, which as stated above, has not occurred here.

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<sup>10</sup> Submission of the Anna Hutchinson Family Trust, dated 9 June 2023 at paragraph 1.

<sup>11</sup> s32 Report, at page 23.

<sup>12</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

<sup>13</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

*Second Limb Factors*

- 47 In our submission there would also be substantial potential prejudice to persons directly or potentially affected by the additional changes proposed in the submission. The participation of people potentially affected would be dependent on:
- ...on seeing the summary of submissions, apprehending the significance for their land of the summary of [the submitters] submission, and lodging a further submission within the 10 day time frame prescribed.
- 48 While the further submission process can, and here, has allowed for some submitters to submit against rezoning of the Extension Area, this does not remedy the potential for others to not be informed.
- 49 As stated in paragraph 36, the context of the SPP heightens the concern here, with a “submissional sidewind” changing the nature of the variation having heightened importance due to the lack of appeal rights. While the summary of decisions requested was clear that the submission was seeking inclusion of extra land, that does not in itself remedy the lack of notification for others.<sup>14</sup>
- 50 The AHFT also have alternative options available to them, such as a private plan change. As noted by Kós J:<sup>15</sup>
- ... Permitting the public to enlarge significantly the subject matter and resources to be addressed through the Schedule 1 plan change process beyond the original ambit of the notified proposal is not an efficient way of delivering plan changes. **It transfers the cost of assessing the merits of the new zoning of private land back to the community...**
- (emphasis added)**
- 51 Overall, Council submits that the AHFT is not within scope of the TPLM Variation. It is a significant change, going significantly beyond the ambit of the TPLM Variation and what was assessed in the s32 report, and undermining the rights of potentially affected third parties. Whilst the Council has taken the position that the submission is out of scope, it has still considered the merits of rezoning this land in the event that the Hearing Panel takes a different view on scope (see paragraphs 151 to 157 below).

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<sup>14</sup> Summary of Decisions Requested, OS107.1, 107.2.

<sup>15</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [79].

*Mr and Mrs Dobb*

- 52 The Dobb's land, 13 Ada Place, is located directly adjacent to the TPLM Variation Area, on the southern side of SH6. It is currently zoned rural under the PDP.
- 53 The Dobb's submission sought that the upper terrace of the Dobb's Land be rezoned to either TPLM Zone (Medium Density Precinct); or LDSR Zone, to align with Lake Hayes Estate or the Queenstown Country Club (QCC) land. Given the location and size of the land proposed to be rezoned, is it more arguable that the rezoning is 'on' the TPLM Variation.
- 54 The Council's position as to why the submission is not 'on' the Variation are as follows. Irrespective of scope, the Council considers that merits (as addressed further in paragraphs 158 to 159) do not support the proposed rezoning.

*First Limb Factors*

- 55 Most significantly, the s32 report contains in-depth analysis on the areas proposed to be rezoned.<sup>16</sup> As noted in *Motor Machinists*, site-specific analysis of the proposed rezoning, urban design, traffic effects, heritage values, and landscape effects and more, as are in the s32 report, would likely be required for the extension of a zone (albeit in *Motor Machinists* it was spot-zoning, whilst here the land is adjacent to the TPLM and LDSR zones). Further, the rezoning of the upper terrace in particular of the Dobb's Land could have landscape effects which should be analysed in the s32 report, to allow the general public to be informed on the comparative merits of rezoning the Dobb's land, and also potential for ecological effects, with the Open Space precinct adjacent to the Dobb's land being known as a foraging habitat for the threatened South Island pied oystercatcher.<sup>17</sup> The position being advanced by the Council in this case, is consistent with the position it has taken on other rezoning requests.<sup>18</sup>

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<sup>16</sup> For example, see s32 Report, page 74, for an analysis on the rezoning of the QCC land.

<sup>17</sup> Evidence of Dawn Palmer dated 29 September 2023, at paragraph 59, rebuttal evidence of Dawn Palmer dated 10 November 2023, at paragraph 10.

<sup>18</sup> *Well Smart Investment Holding (NZQN) Ltd v Queenstown Lakes DC* [2015] NZEnvC 214.

### *Second Limb Factors*

- 56 As above with the Extension Area, the lack of appeal rights is of fundamental importance in considering the *Motor Machinists* second limb for the Dobb's land. Further, the Dobb's land was not indicated on any of the TPLM Masterplan or TPLM Variation maps as being rezoned.
- 57 Overall, Council submits that both submissions are not 'on' the TPLM Variation. Further, there are alternative options available to the Dobb's if they are dissatisfied with the management regime currently over their land.

### *Urban Growth Boundary / Slope Hill ONF*

- 58 Maryhill and Glenpanel both sought in their submissions that the UGB be shifted up Slopehill (**Slope Hill Extension**). Maryhill also specifically sought that the Slope Hill ONF line be shifted upwards to align with the Slope Hill Extension (whilst Glenpanel did not). Maryhill has not provided any expert evidence relating to the Slope Hill Extension, and it appears that they are not pursuing this relief.
- 59 Glenpanel's primary relief is that the UGB be shifted into the Slope Hill ONF, rather than moving the Slope Hill ONF as well.<sup>19</sup> However, as clarified in their expert evidence, if this is not possible, they seek that the Slope Hill ONF be adjusted. This was not part of the original submission.
- 60 The management regime of the Slope Hill ONF was never proposed to be changed by the TPLM Variation, rather the UGB was being brought up to the Slope Hill ONF. Whilst shifting the UGB further could be argued to be within scope, shifting it into the Slope Hill ONF will change the management regime of the ONF itself.<sup>20</sup> It would be a significant alteration of the status quo.<sup>21</sup>
- 61 The s32 report does not consider or analyse shifting the UGB into the Slope Hill ONF, it did state specifically, when analysing the PDP Chapter 6 Policy 6.3.1.1 that:<sup>22</sup>

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<sup>19</sup> Submission of Glenpanel Development Limited dated 9 June 2023, at paragraphs 11 - 13.

<sup>20</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [91].

<sup>21</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [80].

<sup>22</sup> See s32 Report, Appendix 3A(xi), Master Landscape Report.

...The Ladies Mile is part of the Wakatipu Basin and not a RCL. However the landscape category boundary of the Slope Hill ONF has been defined and confirmed and **not a part of the proposal will take place within the ONF.**

(emphasis added)

62 The s32 report is “required to inform affected persons of the comparative merits of [the sought after] change”.<sup>23</sup> Here, submitters could not be fully informed of any site-specific analysis of shifting the UGB into the Slope Hill ONF.

63 In terms of the second limb, there is a potential for prejudice to the public if this relief is found to be ‘on’ the TPLM Variation. The Summary of Decisions Requested was unlikely to alert the general public of what Glenpanel was seeking, stating only that:<sup>24</sup>

That the UGB be extended (and any consequent extension of the relevant Zoning and Precinct) to better enable the extent of development that is appropriate in the Glenpanel Precinct, together with critical infrastructure that will support the eastern corridor into the future.

64 On the basis that there was no reference to Slope Hill, or that the UGB was shifting into the Slope Hill ONF, interested parties may not have been alerted that the Slope Hill ONF could be adjusted. As above, the prejudicial effect is compounded by the SPP and its lack of appeal rights. For the Slope Hill ONF in particular, the public could *not* infer that any shifts to the Slopehill ONF would occur through the Ladies Mile Variation.<sup>25</sup> This is emphasised due to the boundary in both the Masterplan and Variation never shifting into the Slopehill ONF, denying people an effective opportunity to respond to these changes.

## OVERVIEW OF THE MATTERS AGREED BETWEEN THE EXPERTS

65 While there remain a number of issues still to be resolved, there is a significant amount of alignment between the Council’s experts and the experts being called in support of submitters on the TPLM Variation.

66 It is acknowledged that you will hear from a number of lay submitters with concerns in relation to the TPLM Variation (particularly on traffic

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<sup>23</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

<sup>24</sup> Summary of Decisions Requested, OS73.3

<sup>25</sup> The Council’s position is also that there is also no scope for ONF lines to be adjusted through the Landscape Priority Schedule Variation (currently being processed by the Council) due to the ONF lines being directed by the Court.

matters), however your consideration of the various issues must be significantly informed by the expert evidence.

- 67 The key matters agreed between the experts are set out as follows.
- 68 The appropriateness of the TPLM Variation area for urban development. Specifically:
- (a) The planners agree the TPLM Variation area is suitable for urbanisation.<sup>26</sup>
  - (b) The economists agree that the Eastern Corridor (including the TPLM Variation Area) has been identified for future growth and this is a logical location for growth.<sup>27</sup> The TPLM Variation provides for a good economic outcome in terms of the Queenstown housing market as it provides for additional housing supply and choice in an efficient location.<sup>28</sup>
  - (c) The landscape witnesses agree that generally the extent of the TPLM Variation Area is appropriate.<sup>29</sup>
- 69 The TPLM Variation will enable much needed housing supply and choice in Queenstown. The economists agree:
- (a) The Queenstown housing market is growing fast.<sup>30</sup> Greater diversity of housing stock in Queenstown (including price, type & location) is needed.<sup>31</sup>
  - (b) The TPLM Variation area is a component of a wider roll out of dwelling capacity in Queenstown in the short to medium term.<sup>32</sup>
  - (c) Low rise apartments, terraces and duplexes are likely to be realised in the short term and providing development opportunity for these kind of typologies in the TPLM Variation area now is appropriate.<sup>33</sup>

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<sup>26</sup> Planning JWS, dated 3 November 2023 (for Thursday 2 November only), attachment A, page 1.

<sup>27</sup> Economic JWS, dated 2 November 2023, attachment A, issue 1.

<sup>28</sup> Economic JWS, dated 2 November 2023, attachment A, issue 2.

<sup>29</sup> Landscape JWS, dated 2 November 2023, attachment A, issue 2(b).

<sup>30</sup> Economic JWS, dated 2 November 2023, attachment A, issue 1.

<sup>31</sup> Economic JWS, dated 2 November 2023, attachment A, issue 1.

<sup>32</sup> Economic JWS, dated 2 November 2023, attachment A, issue 4.

<sup>33</sup> Economic JWS, dated 2 November 2023, attachment A, issue 2.



- 70 The analysis and findings underpinning the Council's transport assessment. The transport experts agree:
- (a) The current performance of the transport network within the vicinity of the TPLM Variation area has been correctly described in the evidence of Colin Shields and Dave Smith.<sup>34</sup>
  - (b) The modelling used is acceptable and it represents the current/future situation. Further, the modelling demonstrates the importance of achieving the mode share targets that have been assumed.<sup>35</sup>
- 71 Key elements of the Council's stormwater solution. The stormwater experts agree:
- (a) That soakage to land is the preferred means of stormwater disposal.<sup>36</sup>
  - (b) That the development areas within the TPLM Variation are required to put the 1% Annual Exceedance Probability (**AEP**) rainfall event to ground.<sup>37</sup>
  - (c) That run off from Slope Hill must be managed (natural servitude), and ideally, design of stormwater management devices would put Slope Hill 1% AEP rainfall event to ground.<sup>38</sup>
- 72 The Council's ecological evidence is not contested by any other ecological expert.<sup>39</sup>

## **OUTSTANDING OVERARCHING ISSUES**

- 73 The exchange of expert evidence and the formal and informal expert witness conferencing that has occurred has resulted in number of the issues raised by submitters to be addressed or be significantly narrowed.

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<sup>34</sup> Transport JWS, dated 30 October 2023, attachment A, page 1.

<sup>35</sup> Transport JWS, dated 30 October 2023, attachment A, page 1.

<sup>36</sup> Infrastructure / Stormwater JWS, dated 2 November 2023, attachment A, Issue 1.

<sup>37</sup> Infrastructure / Stormwater JWS, dated 2 November 2023, attachment A, Issue 1(a).

<sup>38</sup> Acknowledging that further consultation and agreement with Council in respect to the management of flows up to 1% AEP off Slope Hill is necessary in the event that the entirety of the 1% AEP is unable to be discharged to ground: Infrastructure / Stormwater JWS, dated 2 November 2023, attachment A, Issue 1(a).

<sup>39</sup> The residual concerns in the letter received on behalf of the Director General of Conservation dated 24 October 2023 are addressed below.

- 74 The following section outlines general issues that have been raised by submitters either in the pre-hearing meeting, through evidence, or through questions asked of its witnesses that have not otherwise been addressed in these submissions.

### **Minimum Residential Density**

- 75 As foreshadowed above, a key driver for the TPLM Variation is to enable housing supply, choice and affordability in response to the District's rapid growth. The TPLM Variation requires minimum residential densities in the MDR and HDR Precincts.
- 76 As explained by Mr Brown in the s42A report, the purpose of the minimum residential densities is three-fold:<sup>40</sup>
- (a) In combination with the existing and proposed low density residential development at TPLM, they ensure that a range of typologies and unit sizes will be developed, thereby encouraging diversity of housing product;
  - (b) They enhance the potential for transport modal shift by creating critical mass of population close to the centre and the public transport route (in combination with the traffic infrastructural triggers and range of activities within the TPLM area (Commercial Precinct, anticipated schools, community facilities, open spaces and recreation); and
  - (c) Utilising the finite land resources within the Wakatipu Basin in the most efficient manner, by promoting the opportunity for a greater population to reside there.
- 77 Minimum residential densities are also supported from an urban design perspective<sup>41</sup> and will also assist in fulfilling the NPS-UD's Policy 1 for "well-functioning urban environments".<sup>42</sup> Accordingly, minimum residential densities in the MDR and HDR Precincts are an essential component of the TPLM Variation.

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<sup>40</sup> s42A Report, paragraph 11.188.

<sup>41</sup> Urban Design JWS, attachment A, page 9; Rebuttal evidence of Michael Lowe dated 10 November 2023, at paragraph 10.

<sup>42</sup> s42A Report, paragraphs 11.189 and 11.191.

- 78 Various landowner submitters have challenged the notified minimum residential densities in the MDR and HDR Precincts as being too high for current and future market conditions.<sup>43</sup>
- 79 While the notified minimum residential densities in the MDR and HDR Precincts are supported by the economic evidence (acknowledging Ms Fairgray evidence that these are high and at one end of the range she supports),<sup>44</sup> at expert conferencing the economic witnesses agreed that the minimum densities, particularly in the HDR Precinct, are too high for the current Queenstown market. However, the experts largely agree these densities may be feasible in the longer term (with one expert disagreeing and noting that higher minimum densities will not be feasible at all).<sup>45</sup>
- 80 From a traffic perspective, Mr Parlane, called by Ladies Mile Property Syndicate (77), draws on international research on public transport use and density of residential development and concludes there is a diminishing returns for modal shift over 40 dwellings per hectare.<sup>46</sup> Mr Shields' view is that there is a connection between density and the success of the mode share assumptions and, although he acknowledges that this finally balanced between 40 – 60 dwellings per gross hectare, he considers that at least 40-60 dwelling per gross hectare is required for effective mode shift.<sup>47</sup>
- 81 Mr Brown has considered the broad range of evidence on minimum residential densities and considers there is merit in an approach in the HDR Precinct that allows, in the short–medium term, minimum densities at a lesser density than included in the notified provisions. However, this is on the proviso that the opportunity for attaining higher densities is not foreclosed by developers building out the available land at the lesser densities.<sup>48</sup>

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<sup>43</sup> For example: See evidence of Hamish Anderson dated 20 October 2023, at paragraph 26; evidence of Adam Thomson dated 20 October 2023, at paragraphs 12 to 15..

<sup>44</sup> Evidence of Susan Fairgray dated 29 September 2023, at paragraph 22.

<sup>45</sup> Economic JWS, dated 2 November 2023, attachment A, issue 4.

<sup>46</sup> Evidence of John Parlane dated 20 October 2023, at paragraphs 6.9 to 6.12.

<sup>47</sup> Rebuttal evidence of Colin Shields dated 10 November 2023, at paragraph 55.

<sup>48</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 141.

- 82 Ms Fairgray’s rebuttal evidence demonstrates that if developers were to develop at lower densities (i.e. 40 – 45 dwellings per gross hectare<sup>49</sup>) in the short to medium term then only between 10% to 20% of the HDR Precinct land area would be required to develop as higher density dwellings to achieve the notified TPLM Variation minima (i.e. 60 dwellings per gross hectare).<sup>50</sup> If areas containing higher density dwellings were developed more intensively then this would reduce to 6% to 10% of the HDR Precinct land area, or 2% to 4% of the overall TPLM developable area.<sup>51</sup>
- 83 Other planning witnesses appear to agree that it is possible to find a mechanism to enable lower end of density range in initial build, but that requires evidence of how later builds on same site/same developer will achieve the higher density.<sup>52</sup>
- 84 In his rebuttal evidence, Mr Brown considered five possible options to amend the HDR Precinct rules to incentivise initial development with densities at the lower end of the range, while still achieving later densities at higher end of range.<sup>53</sup> Mr Brown’s preferred options enable developers to develop in stages. Starting with stage(s) at the lower end of the high density range but with later stages at the higher end of the high density range, provided developers agree to a mechanism (such as a covenant) that demonstrates the commitment to developing the higher densities sometime later.<sup>54</sup>
- 85 Mr Brown has since drafted amendments to the TPLM Variation provisions to incorporate this approach and has provided proposed wording to planning witnesses for the submitters for comment. Mr Brown will present his amended minimum density provisions for development in the HDR Precinct when he presents his evidence at the hearing.

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<sup>49</sup> The rebuttal evidence of Susan Fairgray refers to the lower densities of 60 dwelling per “net” hectare (as used in the evidence of Adam Thompson for Ladies Miles Property Syndicate (77)). This equates to 40-45 dwelling per “gross” hectare according to Ms Fairgray’s calculations at paragraph 27 of her rebuttal evidence.

<sup>50</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 36.

<sup>51</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 33(c).

<sup>52</sup> Planning JWS, dated 3 November 2023 (for Friday 3 November only), attachment A, page 6.

<sup>53</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 143 to 146.

<sup>54</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 147.

- 86 We note Ms Fairgray considers there needs to an ability for the sites earmarked for higher densities (by way of a covenant) to alternatively develop at medium densities if the market for higher density development is not viable toward the end of the intended development period of TPLM.<sup>55</sup> It is submitted that this is possible under the options considered by Mr Brown, including if a covenant is required to be imposed on the balance lots earmarked for higher densities. It is expected that any such covenant will be between the landowner and the Council, and therefore can be amended and revoked with the agreement of both parties.<sup>56</sup> It's likely that any such agreement by the Council to vary or remove the covenant would be following a review of the PDP and the minimum residential densities in the HDR Precinct at TPLM if it can be demonstrated minimum residential densities are not viable.
- 87 Further, as a result of reviewing submitter evidence and engaging at expert conferencing, the Council's witnesses have also reconsidered the minimum density ranges in the HDR Precinct. On the basis of Ms Fairgray's and Mr Lowe's rebuttal evidence, Mr Brown is recommending reducing the required minimum density range in the HDR precinct to 50 – 72 residential units per hectare across the gross developable area of the site.
- 88 Ms Fairgray considers that revised density range will still produce a mix of medium density dwellings that are well-suited to long-term community demand and would be within a reasonable range of potential long-term feasible dwelling development patterns. It is also likely to produce a similar mixture of medium density dwellings (to the originally proposed 60 dwellings per gross hectare), but have a reduced component of higher density dwellings.<sup>57</sup>
- 89 The change from 60 residential units per hectare to 50 residential units per hectare would only reduce the HDR precinct yield required to achieve the density minima by around 200 residential units.<sup>58</sup>
- 90 The Council's witnesses do not support any reduction to the minimum density range in the MDR Precinct (and retain the 40 – 48 residential

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<sup>55</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 77.

<sup>56</sup> Land Transfer Act 2017, section 116(1)(c) and (3).

<sup>57</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 9.

<sup>58</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 85.

units per hectare across the gross developable area of the site in the notified provisions),<sup>59</sup> including as sought by Glenpanel.

- 91 The Council's experts have also considered the options of retaining the "gross" element versus changing to "net" as suggested by at least one submitter's planning witness.<sup>60</sup> However, the Council's experts are supportive of retaining the "gross" element.<sup>61</sup>

### **Urban Design**

- 92 In addition to the density issues (addressed above) a number of changes to the TPLM Variation provisions have been proposed by the Council's witnesses to address urban design issues raised by submitters. In particular, a redesign of eastern edge and a reduction in building restriction area on QCC land. These are addressed further below under the submitter specific issues.
- 93 The other most significant outstanding issues appear to concern the setback treatments insofar that they represent the 'gateway' to Queenstown and the urban design impacts associated with the AHFT proposed rezoning and amendments sought by Glenpanel which are addressed further below.
- 94 Further conferencing on the urban design (and transport) implications of the SH6 corridor speed limit of 60kmh and the framing of the Queenstown gateway experience and setbacks has occurred in response to the Hearing Panel's directions dated 13 November 2023.
- 95 While there are still outstanding points of difference between the experts, including in relation to setbacks on the north side of SH6, this has further refined the issues. For example, the experts are agreed that a maximum setback of 25m on the southern side of SH6 is appropriate and that symmetry between the north and south sides of SH6 is not required.<sup>62</sup>

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<sup>59</sup> Rebuttal evidence of Susan Fairgray dated 10 November 2023, at paragraph 62.

<sup>60</sup> Evidence of Hannah Hoogeveen dated 20 October 2023, at paragraph 3.7.

<sup>61</sup> Rebuttal evidence of Michael Lowe dated 10 November 2023, at paragraphs 24 to 29.

<sup>62</sup> Combined Urban Design and Transport JWS, dated 24 November 2023, attachment A, page 9.

## Economic

- 96 The economic rationale for the TPLM Variation is strong. Ms Fairgray's evidence addresses this in terms of the residential components of the TPLM Variation while Ms Hampson addresses issues associated with the Commercial Precinct.
- 97 The Council's economic evidence has informed its position on a number of issues and has resulted in significant refinement of the issues, and provisions.
- 98 In summary, the refinement of the issues has seen the Council recommend changes in relation to:
- (a) The density provisions (as outlined above).
  - (b) The activity status and provisions for residential visitor accommodation within both the Commercial Precinct and the HDR Precinct.<sup>63</sup>
  - (c) The activity status and provisions for visitor accommodation in the Commercial Precinct and Glenpanel Precinct.<sup>64</sup>
  - (d) An increase in the size of the supermarket within the Commercial Precinct.<sup>65</sup>
  - (e) The deletion of the prohibited activity rule for Service Stations in the Commercial Precinct.<sup>66</sup>
  - (f) An increase in the extent of the Commercial Precinct.<sup>67</sup>
  - (g) Amendments to the provisions in relation to residential flats.<sup>68</sup>
  - (h) The inclusion of a Storage Facility overlay.<sup>69</sup>
- 99 These refinements appear to have significantly reduced the scope of matters in contention between the economic experts. Outstanding submitter specific issues are addressed below.

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<sup>63</sup> s42A Report, at paragraph 64.

<sup>64</sup> s42A report, at paragraph 11.242-11.245.

<sup>65</sup> s42A Report, at paragraph 17.

<sup>66</sup> s42A Report, page 197.

<sup>67</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraphs 98 to 99.

<sup>68</sup> s42A Report, appendix D, pages 43 to 45..

<sup>69</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 133.

### Traffic effects

- 100 The overwhelming majority of lay submitters that oppose the TPLM Variation are concerned about traffic effects arising from development at TPLM. The lay submitters' opposing the Variation contend that:
- (a) The existing transport infrastructure (SH6, intersections and the Shotover Bridge) is already overwhelmed and congested and cannot tolerate the additional traffic from a further 2400 residential units in this area;
  - (b) Road safety will be compromised;
  - (c) The mode shift targets are unrealistic because people will still need to use private cars, will not use buses, and will not use active transport especially in the winter;
  - (d) There are flaws in the data and modelling; and
  - (e) The parking restrictions are too low and will not work.
- 101 Several lay submitters raised these concerns at the Pre-Hearing Meeting held on 9 to 10 October 2023.<sup>70</sup> Two lay submitters have also reiterated these concerns in statements of evidence filed on 20 October 2023.<sup>71</sup>
- 102 It is understandable that so many submitters (many of whom are residents within the existing communities of Ladies Mile, Lake Hayes Estate and Shotover Country) are concerned about traffic effects, as it is acknowledged that there is currently congestion on SH6 during peak periods. The evidence of Mr Shields, Mr Pickard and Mr Brown recognise this. At conferencing, the traffic experts agreed that the transport network is currently not operating at a high level of service in the peak periods.<sup>72</sup>
- 103 However, this level of traffic congestion will continue indefinitely without a range of infrastructure upgrades and interventions. The TPLM Variation is one of the interventions to address this congestion and provides an opportunity to "do" urban development differently.

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<sup>70</sup> Pre-Hearing Meeting Report dated 13 October 2023 prepared by Helen Atkins.

<sup>71</sup> For example, Stuart Victor (89) and Rob Burnell on behalf of the Lake Hayes Estate and Shotover Country Community Association (79).

<sup>72</sup> Transport JWS, dated 30 October 2023, attachment A, page 1.



- 104 In other words, the TPLM Variation does not represent a continuation of the status quo, i.e. the same type of car dependant low density residential development currently present on the southern side of SH6. Rather, the TPLM Variation will create a compact, mixed use urban development to support residential densities that will sustain frequent public transport and make shared and active modes more attractive thereby reducing reliance on car use.
- 105 It may be difficult for submitters to visualise this type of urban development and why a further 2000 + residential units will not create an additional number of cars on the roading network at the same rate as currently used by local residents. However, the TPLM Variation enables this different approach in a number of ways.
- 106 It promotes a significantly greater degree of self-sufficiency within the Eastern Corridor, to contain as far as possible private vehicle trips within the Eastern Corridor and reduce as far as possible the number of private vehicle trips to destinations outside the Eastern Corridor (particularly to the west across the Shotover Bridge). This will be primarily achieved by:
- (a) The activities enabled within the Commercial Precinct particularly the supermarket; and
  - (b) The recreational facility provided within the Open Space Precinct and the anticipated establishment of a primary school and a secondary school in the future.
- 107 It maximises the opportunities for active transport within TPLM and to and from other communities in the Eastern Corridor. The internal street and SH6 cross sections included in the Structure Plan promote walking and cycling through the provision of wide footpath widths, segregated cycleways and a low traffic speed environment. A reduction in the SH6 speed limit to 60km/h will enable at grade signalised crossings for pedestrians and cyclists. Requirements for cycle parking and end of trip facilities (e.g. lockers and showers) are also incorporated in provisions.
- 108 It requires high residential densities to support the activities within the Commercial Precinct, and, importantly, to support frequent public transport.
- 109 It requires installation of transport infrastructure works within the SH6 corridor (including upgrades to existing intersections, provision of bus

lanes, bus stops and pedestrian and cycle crossings) with the goal of SH6 becoming an urban avenue rather than a rural highway. All of these transport infrastructure works are required to be completed prior to development occurring to enable mode *choice* for new TPLM residents right from the start (rather than enable a mode *shift* for the existing residents).

- 110 It enables the bus routing on SH6 with high quality bus stops to be provided enabling the majority of the TPLM Variation area to be within 500m of a bus stop. The TPLM Structure Plan also enables a potential new bus (and pedestrian/cycle) only link from SH6 to Sylvan Street in the Lake Hayes Estate. .
- 111 It requires maximum on-site car parking rates for residential, offices and retail uses. Limited on street parking will be provided for visitors, car share and deliveries/servicing and this will be provided at a much lower level than that required within the QLDC Code of Practice.
- 112 These elements within the TPLM Variation will also be complemented by other interventions by the QLDC that Mr Pickard discusses in his evidence, including behavioural change initiatives (parking management planning, travel demand management, and travel management associations).<sup>73</sup>
- 113 It is acknowledged that a number of the transport infrastructure works and wider transport initiatives (including rapid public transit service) will be delivered by the Way2Go partners (Waka Kotahi NZ Transport Agency (**Waka Kotahi**), Otago Regional Council (**ORC**) and QLDC) and funding for and delivery of these wider transport initiatives is not necessary guaranteed (although the majority of wider transport initiatives are included in the Way2Go partners proposed schedule of works).<sup>74</sup>
- 114 This is not an uncommon situation. We are aware of many instances where development can only occur in way which is integrated with the

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<sup>73</sup> Evidence of Tony Pickard dated 29 September 2023, at paragraphs 14 to 19.

<sup>74</sup> Evidence of Colin Shields dated 29 September 2023, at paragraph 35, and at Appendix B.

delivery of necessary transport infrastructure upgrades (some of which are not necessarily guaranteed).<sup>75</sup>

- 115 As discussed further below in relation to three waters infrastructure, any uncertainty of funding for infrastructure is not a basis to refuse to rezone land.<sup>76</sup> We note that if QLDC was not able to comprehensively plan for future urbanisation within its District through a plan change or variation unless wider infrastructure projects were guaranteed, it would not be able to fulfil its functions under the Act to establish a planning framework that achieves the integrated management of the effects of the use, development, or protection of land.<sup>77</sup>
- 116 Lay submitters' key concerns regarding traffic matters are comprehensively addressed in the evidence of Mr Shields.<sup>78</sup> Mr Shields maintains his opinion that the transport impact of the TPLM Variation (with the proposed public transport measures) will be acceptable and will be managed such that the safe, effective and efficient operation of the transport network can be achieved.<sup>79</sup>
- 117 Moreover, as set out above in paragraph 70, the analysis and key findings underpinning Mr Shield's transport assessment are agreed between the traffic experts.<sup>80</sup> Your consideration of the traffic concerns raised by lay submitters must be considered in light of the expert evidence.
- 118 It is important to note that Waka Kotahi supports the Variation.<sup>81</sup> Waka Kotahi's submission sought a number of changes to provisions that have largely been recommended to be accepted by Mr Brown.<sup>82</sup> Further, Waka Kotahi's traffic expert, Mr Smith, and Mr Shields are now largely aligned on evidential matters, including their assessments of existing

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<sup>75</sup> Examples of consent orders endorsing a similar approach include: *Kāinga Ora – Homes and Communities v Auckland Council* [2022] NZEnvC 218, *Lomai Properties Ltd v Auckland Council* [2022] NZEnvC 95

<sup>76</sup> *High Quality Ltd v Auckland Council* [2022] NZEnvC 117. The relevant parts of this case that deal with the infrastructure funding issue specifically are [30]-[35], [68]-[76] and [117].

<sup>77</sup> Resource Management Act 1991, section 31(1).

<sup>78</sup> Evidence of Colin Shields dated 29 September 2023, at paragraphs 71 - 157, Rebuttal evidence of Colin Shields date 10 November 2023, at paragraphs 57 – 70.

<sup>79</sup> Evidence of Colin Shields dated 29 September 2023, at paragraph 160. Rebuttal evidence of Colin Shields date 10 November 2023, at paragraph 71.

<sup>80</sup> Transport JWS, dated 30 October 2023, attachment A, page 1.

<sup>81</sup> Submission of Waka Kotahi dated 9 June 2023, at page 3.

<sup>82</sup> s42A report, paragraph 11.43 and also in Appendix D.

and future traffic conditions and several further necessary amendments to the notified TPLM Variation that will contribute to overall TPLM Variation transport outcomes.<sup>83</sup> In particular, that intersection upgrades are required to SH6 / Stalker Road and SH6 / Howards Drive intersections to enable signalisation and that the speed limit on SH6 should reduce to 60km/h.

- 119 Mr Brown has recommended changes to the TPLM Variation provisions to ensure that the necessary upgrades to the Howards Drive and Stalker Road intersections are incorporated in the infrastructure triggers. The implications of the speed limit reduction to 60km/hr for the Amenity Access Area and setbacks shown on the Structure Plan and the SH6 cross-section diagram require urban design consideration and have been the subject of additional expert conferencing.<sup>84</sup>
- 120 Lastly, numerous submissions challenged the transport infrastructure triggers and sought that they were removed or modified.<sup>85</sup> In the s42A report, Mr Brown recommended that they be retained. The infrastructure staging provisions are a critical element underpinning the TPLM transport strategy to ensure that the transport infrastructure upgrades are in place prior to the rollout of residential and commercial development.<sup>86</sup>
- 121 Following conferencing, it appears that the majority of submitters' concerns with the transport infrastructure triggers are largely resolved if the rules can allow development (including consenting and construction) to proceed in parallel with the traffic infrastructural works (but that occupation of the development is not to occur until the corresponding traffic infrastructure works are in place).<sup>87</sup> Mr Brown has recommended amendments to the relevant rules to enable this approach.<sup>88</sup>
- 122 Other submitter specific traffic issues are addressed in the sections on below on rezoning requests and submitter specific issues.

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<sup>83</sup> Transport JWS, dated 30 October 2023, attachment A, pages 2-6; rebuttal evidence of Colin Shields date 10 November 2023, at paragraphs 8 - 40.

<sup>84</sup> Combined Urban Design and Transport JWS, dated 24 November 2023, attachment A, page 9.

<sup>85</sup> Section 42A report, paragraph 11.202.

<sup>86</sup> Section 42A report, paragraph 11.205-11.208.

<sup>87</sup> Planning JWS, dated 3 November 2023 (for Thursday 2 November only), attachment A, page 3; Rebuttal evidence of Jeff Brown dated 10 November 2023, paragraph 47.

<sup>88</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, paragraphs 50 - 53.

## Ecology

- 123 The ecological effects of the proposed rezoning of Te Pūtahi, Ladies Mile have been thoroughly assessed by Ms Palmer. Her evidence confirms that the TPLM Variation Area provides 'fleeting' habitat for three endangered avifauna species: the South Island Pied Oystercatcher (**SIPO**), Black-fronted terns and the Black-billed gulls. These species are highly mobile fauna under the NPS-IB, however Ms Palmer's evidence confirms that the TPLM Variation does not constitute a significant natural area.<sup>89</sup>
- 124 The Director-General of Conservation has lodged a detailed submission opposing aspects of the TPLM Variation. While the Director-General has subsequently withdrawn the request to be heard on the submission, and has called no expert evidence in relation to its submission, concerns, set out in the letter dated 24 October 2023, remain.
- 125 These include concerns in relation to the integrated stormwater solution (addressed further below); effects on bird habitat; and the need for potential approvals under the Wildlife Act 1953.
- 126 In terms of effects on bird habitat, Ms Palmer's evidence addresses these matters in detail. In her rebuttal evidence, addressing the Director-General's letter, Ms Palmer emphasises the need for a multi agency response to monitor the foraging, nesting and roosting habitat use of back fronted terns, SIPO and black-billed gulls and their seasonal migration routes to and from the District.<sup>90</sup> Ms Palmer notes that the management of at-risk and highly threatened species within the wider Whakatipu Basin needs to occur as part of a wider workstream to implement that NPS-IB.<sup>91</sup>
- 127 As is detailed in Appendix B the statutory framework for the consideration of the TPLM Variation requires the NPS-IB to be given effect to (to the extent that there is scope within submissions). However, the process to fully implement the NPS-IB within the District will take some time. This is reflected by the fact that the timing for implementation of the NPS-IB, which requires it to be implemented as

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<sup>89</sup> Evidence of Dawn Palmer dated 29 September 2023, at paragraph 181.

<sup>91</sup> Rebuttal evidence of Dawn Palmer dated 10 November 2023, at paragraph 24.

soon as reasonably practicable, gives local authorities 8 years from its commencement to notify changes to planning document to implement it.

- 128 Further in the case of highly mobile species, Policy 15 states “Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.” The relevant implementation provisions of the NPS-IB also require the regional council to undertake certain steps.
- 129 In these circumstances, it is submitted that the TPLM Variation does “give effect to” the NPS-IB.
- 130 The Director-General’s letter also notes the potential for Wildlife Act approvals being needed to relocate lizards such as McCanns Skink. The potential for future Wildlife Act approvals being required is acknowledged. However, s23 of the RMA makes it clear that compliance with the RMA does not remove the need to comply with other applicable legislation, including the Wildlife Act 1953.
- 131 Overall, the ecological impacts of the TPLM Variation do not represent a reason not to proceed with the rezoning.

### **Stormwater**

- 132 The issue of stormwater remains a complex one, particularly given the location of the TPLM Variation area, near the sensitive receiving environment of Lake Hayes / Waiwhakaata. The impact of the TPLM Variation (and particularly stormwater) on Lake Hayes has been carefully considered during the development of the Variation, and by QLDC experts. Policy 27.3.24.7 requires stormwater management systems to be designed to avoid any direct discharges of stormwater to Lake Hayes.
- 133 Mr Gardiner’s evidence outlines the background to the stormwater solution. Under the TPLM Masterplan it was originally proposed that a centralised system would be shown in the Structure Plan with two devices to address stormwater from the future urban development, along with the significant flows coming off Slope Hill. This proposal was not carried through to the notified TPLM provisions, both because of concerns of the Council in terms of funding and provision of a system,

but also in response to strong opposition from a number of developers through the Masterplan feedback.<sup>92</sup>

- 134 The Council has sought to engage with Kāi Tahu throughout the process, as is contemplated by the Minister’s Statement of Expectations. In response to Kāi Tahu’s submission on the TPLM Variation, and in light of the evidence of both the stormwater experts and ecological advice received by QLDC, Mr Brown has proposed a range of amendments to the notified TPLM provisions in order to ensure that the stormwater solutions are integrated.
- 135 As is addressed above, there is a large degree of alignment between the stormwater experts (including Mr Ladbrook called by Glenpanel and AHFT) in terms of the ability to dispose of stormwater to ground in events up to the 1% AEP) event (at least in so far as stormwater from the development area is concerned) and the need for integration between different landholdings.<sup>93</sup>
- 136 Mr Gardiner supports the use of guidelines that sit outside of the District Plan to help ensure the integrated solution is able to be achieved, a matter that Mr Ladbrook does not appear to think is necessary.<sup>94</sup> Mr Gardiner response to questions clarifies his intention for the guidelines to act as informational guidance and that he does not expect that these would impose requirement beyond those already set out in Engineering Standards and the PDP.<sup>95</sup>
- 137 In terms of the Hearing Panel’s consideration of this issue, in my submission, it is the provisions of the TPLM Variation that are the critical matter for the Hearing Panel’s attention. You must be satisfied that the provisions are the most appropriate way of achieving the objectives of the TPLM Variation.
- 138 Having said that, there is nothing preventing the Council from subsequently developing future guidelines to assist in the implementation of the TPLM Variation. Guidelines and non-statutory documents that sit outside of a district plan are commonly used in a

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<sup>92</sup> Evidence of John Gardiner dated 29 September 2023, at paragraph 72.

<sup>93</sup> Infrastructure / Stormwater JWS, dated 2 November 2023, attachment A, issue 1(a) and issue 2.

<sup>94</sup> Rebuttal evidence of John Gardiner dated 10 November 2023, at paragraph 20 and 25.

<sup>95</sup> John Gardiner, responses to questions dated 24 November 2023.

range of situations. The key proviso is ensuring that such guidelines do not fetter the discretion of QLDC as consent authority in its implementation of the TPLM Variation. That is a matter that will depend on the terms of any future guidelines.

- 139 While the evidence and concerns of the Director-General, Kāi Tahu and Friends of Lake Hayes are acknowledged, the stormwater experts agree that stormwater solution greatly reduces the probability of any discharge to Lake Hayes, except in very extreme events and that it is highly unlikely to worsen the water quality of Lake Hayes.<sup>96</sup>
- 140 As Ms Prestidge's rebuttal evidence explains, if flow from Slope Hill is unable to be soaked to ground for rainfall up to and including the 1% AEP event, then consideration would need to be given to how the additional flow is managed and whether the overland flow can be discharged to Lake Hayes. While water quality expertise might be required at that point in time, that is a matter that would need to be resolved during the detailed design phase of resource consenting.<sup>97</sup> It is also important to reiterate that to the extent discharge to Lake Hayes is required (say if during the detailed design phase it become clear that it was not possible to dispose to ground the Slope Hill runoff in a 1% AEP event) then the actual discharge is an Otago Regional Council consenting function, not one of QLDC's functions under s31 of the RMA.

### **Three waters servicing feasibility**

- 141 The evidence for the Council is that three waters servicing is feasible. That is a matter that does not appear to be in contention. However, it is also important to record that whilst the feasibility is not in question, the matter of funding for three waters infrastructure remains unresolved.
- 142 The Council has, at this point in time, made no commitment to fund any of the three waters services needed to realise development with the TPLM Variation area.
- 143 Any decision to do so, would need to occur via the Council's future Long-Term Plan, and the TPLM Variation can plainly not commit the Council to do so. It is acknowledged that caselaw has indicated that rezoning should only occur where there is a commitment to provide to

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<sup>96</sup> Stormwater/Infrastructure JWS, dated 2 November 2023, attachment A, issue 4.

<sup>97</sup> Rebuttal evidence of Amy Prestidge dated 10 November 2023, at paragraph 42.



infrastructure necessary to allow the activity<sup>98</sup> However, more recent obiter comments seem to acknowledge that a lack of funding for infrastructure is not a basis to refuse to rezone land.<sup>99</sup>

- 144 While there is currently no commitment in place by the Council, this does not represent a reason not to proceed with the rezoning. Either the Council will make future decision to fund (and construct) some or all of these works, in which case it would also presumably seek to recover those funds via development contributions.
- 145 Alternatively, infrastructure works will need to be developer led, with resource consent conditions and development agreements being used to require the work and address funding issues as between the Council and developers. This approach has been common in other parts of the District (and country) as growth opportunities are unlocked. I acknowledge that some of the Hearing Panel's questions in its Minute dated 21 November 2023, relate to funding, and this will be addressed further by the experts, and in the Council's reply as required.
- 146 The critical matter in terms of your recommendations on the TPLM Variation is ensuring that the provisions require the relevant services at the appropriate time during the development phase. This does not appear to be in contention.

### **Landscape effects**

- 147 The landscape effects of the TPLM Variation are relevant to the TPLM Variation as a whole, the request by Glenpanel to move the UGB up Slope Hill and allow development along the bottom of Slope Hill, the rezoning of the AHFT Land, the rezoning sought by Mr and Mrs Dobbs, the relief sought by QCC in relation to the setback from SH6, and the submissions of Koko Ridge and Corona Trust.
- 148 Each of these specific issues is addressed elsewhere within these submissions and is not repeated here. Whilst the lay evidence of Mr Blakely raises concerns about the proposed rezoning, in terms of rezoning, the landscape experts have agreed that the landscape context

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<sup>98</sup> *Fore World Developments Ltd v Napier CC* EnvC W008/05 at [15].

<sup>99</sup> *High Quality Ltd v Auckland Council* [2022] NZEnvC 117. The relevant parts of this case that deal with the infrastructure funding issue specifically are [30]-[35], [68]-[76] and [117].

and values of the area are accurately captured in Mr Skelton's evidence and that the generally the extent of the Structure Plan is appropriate.<sup>100</sup>

- 149 Mr Blakely also notes that the Whakatipu Basin Land Use Planning Study recommended a 75m setback for Ladies Mile. It is worth noting that this Study was prepared prior to the NPS-UD which specifically acknowledges that urban environments, including their amenity values develop and change over time in response to the diverse and changing needs of people, communities, and future generations (Objective 4). The issues of setbacks is addressed further above.

### **MERITS OF THE REZONING REQUESTS**

- 150 The jurisdictional issues associated with some of the rezoning requests are addressed above. It is noted that several submitters also sought rezoning but have not provided expert evidence in support of those submission points and we have not addressed these further in legal submissions.<sup>101</sup>

#### **Anna Hutchison Family Trust**

- 151 AHFT seeks that the Extension Area (as shown on Appendix A) is rezoned to the TPLM Zone, including both MDR Precinct and LDR Precinct.
- 152 In the s42A report Mr Brown recommended that the AHFT submission be rejected on the basis of Council's various expert evidence which opposed the relief sought.
- 153 Following the receipt of AHFT's 10 briefs of expert evidence and engaging in expert conferencing, the Council's experts have refined their positions as set out in their rebuttal evidence:
- (a) **Transport** - Mr Shields continues to oppose the inclusion of the Extension Area on the basis that the site is too far removed from the commercial and community facilities within the TPLM Zone. Mr Shields is also critical of the public transport proposal outlined within Mr Bartlett and Mr McKenzie's evidence, for AHFT, of

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<sup>100</sup> Landscape JWS, dated 2 November 2023, Issues 1 and 3b.

<sup>101</sup> Shotover Country Limited (46); Caithness Development Limited (45); Ladies Mile Property Syndicate (77); Winter Miles Airstream (94); Maryhill Limited (105).

providing a separate local bus service away from SH6 which would then interchange with express buses on SH6.<sup>102</sup>

- (b) **Landscape** - Mr Skelton maintains his opposition to the Extension Area as he considers that the extent and scale proposed cannot be absorbed within the landscape, and will result in high adverse effects on visual amenity values and some moderate-high adverse effects on landscape character.
- (c) **Urban design** – Mr Dun maintains his position that the Extension Area should be excluded from the TPLM Variation and the TPLM should focus on development around the proposed commercial centre, sports hub with a focus on walkable neighbourhoods. Mr Dun further reasons that if the Extension Area were to be included in the TPLM Variation then there are alternative layouts that would better integrate transport connections, commercial activity, and higher density residential at the western end of the Structure Plan. Mr Harland has provided some potential layouts in his responses to submitter questions.
- (d) **Residential economics** – Ms Fairgray supports the urbanisation of the Extension Area. However, Ms Fairgray notes that if this area is urbanised at a medium-density scale in the short to medium-term or within a timeframe that coincides with the development of the rest of TPLM, then it may initially dilute intensification of residential development in areas surrounding the TPLM commercial centre.
- (e) **Retail economics** - Ms Hampson supports the inclusion of the Extension Area on the basis that it is an efficient location for urban development in the Eastern Corridor and will further support the viability and vibrancy of the Commercial Precinct in the long-term. Ms Hampson also supports the inclusion of a neighbourhood centre of approximately 2,000sqm net site area at the western end of the notified TPLM Structure Plan to improve accessibility to convenience retail activities but only *if* the Extension Area is included in the TPLM Variation.

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<sup>102</sup>

Rebuttal evidence of Colin Shields dated 10 November 2023, at paragraphs 47 to 48.

- 154 Mr Brown has carefully considered the Council's expert's evidence, joint witness statements and the evidence filed by AHFT's witnesses. Mr Brown concludes that while the AHFT land may be appropriate for urban zoning at some point it should not be included in the TPLM Variation.
- 155 Mr Brown reasons that the TPLM Zone residential densities do not need to be diluted by expansion of the land and the critical mass of population close to the Commercial Precinct needs to be given the best chance to establish quickly. Further, the TPLM population needs to become less reliant on private vehicles by not spreading development further away from the public transport stops.
- 156 Further, Mr Brown considers that the addition of the Extension Area has not had the benefit of proper integrated consideration with the remainder of the TPLM Zone. The Extension Area should be reconsidered and potentially brought into the TPLM Zone through a separate plan change process. However, Mr Brown considers this would inevitably require a masterplanning exercise to determine the appropriate layout, form, density, setbacks, boundary treatment, integration with the existing urban form, and location of any new non-residential activities.
- 157 While the Council's experts have considered the merits of the Extension Area irrespective of the scope issue addressed above, their positions appear to reflect some of the reasons why the AHFT submission goes beyond the ambit of the TPLM Variation. If the Extension Area were to be included in the TPLM Zone, this is more appropriately considered as part of a separate planning process, whereby better integration with the TPLM Structure Plan can be considered and a fulsome s32 analysis can be undertaken.

**Mr and Mrs Dobb**

- 158 The Dobb's submission sought that the upper terrace of the Dobb's Land at 13 Ada Terrace be rezoned to either TPLM Zone (Medium Density Precinct); or LDSR Zone, to align with Lake Hayes Estate or the QCC land.
- 159 The Council's evidence is that this piece of land should not be rezoned. Mr Brown, Mr Skelton and Mr Dun all addressed this in their primary evidence. Mr Devlin has provided planning evidence in support of the proposed rezoning, and Mr Brown's rebuttal evidence acknowledges that the redesign of the eastern approach to the Variation area is likely to

affect this land. While the planning witnesses have all agreed that the rural zoning of this land is an anomaly, Mr Skelton's evidence highlights the importance of retaining the open character of this piece of land.

### **Doolytle & Sons Ltd**

- 160 Mr Dunn's evidence for Doolytle & Son supports the rezoning of the site to TPLM Commercial Precinct. None of the economic experts support this and Ms Hampson has outlined her reasons why she does not support a commercial zoning in her rebuttal evidence. Mr Brown has recommended a change in zoning to the PDP High Density Residential Zone.<sup>103</sup>
- 161 The Hearing Panel (in the Minute dated 13 November 2023) has questioned what the economic implications of higher density residential zoning or office / mixed use development would be. The Council's witnesses will address this further at the hearing.

### **OTHER SUBMITTER SPECIFIC ISSUES**

- 162 A number of the other specific issues have been raised by submitters who are landowners in or near the Variation. A number of these 'landowner' submitter issues, either appear to be resolved, or have considerably narrowed. These are addressed as follows. It is important to reiterate that all submission points on the Variation have been comprehensively addressed in the s42A report and reference should be made to the s42A report (and rebuttal) for any issues not addressed as follows.

### **Roman Catholic Bishop of Dunedin (submitter 82)**

- 163 The submission made by the Roman Catholic Bishop of Dunedin raised a number of concerns including that any non-residential activity would be non-complying because it would not be in accordance with the Structure Plan and also seeking a specific overlay as an "education and place of worship activity area". Mr Brown's rebuttal evidence has proposed some amendment to the Provisions (Rule 49.5.16) to clarify that the density requirements only apply to residential development.<sup>104</sup>

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<sup>103</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 109.

<sup>104</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 91.

- 164 While it is unclear at this stage whether Mr Dunn continues to support the request for an overlay, it appears that the rebuttal version should go a considerable way to addressing this submitter's concerns.

**Koko Ridge Limited (submitter 80, further submitter 130 - 132) Corona Trust Limited (submitter 99)**

- 165 The Corona Trust Limited (**Corona Trust**) filed a submission generally supporting the intensification on the northern side of SH6, but opposing the proposed intensification on the southern side, specifically in Sub Area H2 in the LDR Zone – which is owned by Koko Ridge Limited (submitter 80). The Corona Trust is seeking the removal of Sub-Area H2 from the TPLM Variation, and alternatively 20 metre setback from the southern boundary of Sub Area H2, and a building height restriction of 5.5 metres in Sub Area H2.<sup>105</sup>
- 166 Sub Area H2 LDR zoning is more intensive than the current Large Lot Residential A (**LLR-A**) zoning which has a building setback of 4 metres. This would allow for more intensive development than the approved subdivision scheme for Koko Ridge's land, which has larger lots of 2000m<sup>2</sup> in size.
- 167 There is competing landscape, urban design, and planning evidence on this matter.<sup>106</sup> Mr Brown, having taken into consideration the various experts' opinion, has formed the view that taking the 4 metre setback, paired with a 5.5 metre height limit within 20 metres of the southern boundary adjacent to the Corona Trust boundary would be adequate to manage the effects on the Corona Trust land.<sup>107</sup>
- 168 Mr Brown also notes that within the Sub Area H2 boundary, there is a step bank along the southern boundary. This was not a concern under the LLR-A zoning (as the land is already subdivided to the maximum densities), but in the TPLM Zoning it creates a risk of infill development on the steep bank, which could have poor and unanticipated urban design outcomes and adverse effects on landowners on the lower

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<sup>105</sup> Submission of Corona Trust dated 9 June 2023, at paragraph 22. Note that the primary relief of the Corona Trust is that Sub-Area H2 is removed from the TPLM Variation. Evidence of Brett Giddens dated 20 October 2023, at paragraph 23.

<sup>106</sup> As noted in the rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 119.

<sup>107</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 120.

terrace at Maxs Way.<sup>108</sup> Mr Brown has left this to Corona Trust and Koko Ridge's experts to address.

- 169 The final recommendation in relation to the dispute is that, with the increase in potential yield within Sub Area H2, it may mean more residential properties are located on a terrace adjacent to the Corona Trust boundary. Mr Lowe suggests a minimum lot width of 20 – 25m for any residential lot along the common boundary adjoining Corona Trust, as a minimum required length of individual lot.<sup>109</sup>
- 170 The Council is conscious of the competing evidence between the Corona Trust and Koko Ridge's witnesses, however the Council's experts have focussed their evidence on the environmental effects of the appropriate TPLM Variation provisions in the relevant areas. The Council encourages the two parties to see if they can resolve the remaining issues as between themselves.

*Koko Ridge – Non-Corona Trust issues*

- 171 Aside from the boundary issues, Koko Ridge has raised issues regarding maximum number of residential units and “grandfathering” clauses.
- 172 Mr Brown recommends amendments sought by the experts of Koko Ridge, namely that the maximum number of residential units for Sub Area H2 be increased to 108. With respect to “grandfathering” issues, Mr Brown has recommended changes to reflect the proposal by Mr Devlin to “grandfather” the LLR-A Zone's bulk and location rules so that they would apply to the new development on the existing consented lots over 2000m<sup>2</sup>.<sup>110</sup>

**Glenpanel Development Limited (submitter 73)**

- 173 Glenpanel's submission on the TPLM Variation raised a number of concerns. Based on Mr Murray's evidence its principle concerns are the density provisions; issues associated with the Glenpanel Precinct and increased height limits; development along and in the ONF and the roading layout and transport triggers.

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<sup>108</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 124.

<sup>109</sup> Rebuttal evidence of Michael Lowe dated 10 November 2023, at paragraph 127; Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 127.

<sup>110</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 116.

- 174 Matters associated with the density controls and roading layout and transport triggers have been addressed above and extensively in Mr Brown's evidence (and the respective experts) and are not repeated here.
- 175 In relation to the Glenpanel precinct, Glenpanel has sought height limit in the precinct increase from 8m to 17m. Mr Miller and Mr Dun have addressed the Glenpanel Precinct in their rebuttal evidence. While Mr Miller does not support a blanket 17m height limit,<sup>111</sup> it appears that the use of setbacks and design controls may enable Mr Miller's concerns to be resolved. Mr Miller is engaging in ongoing discussions with Glenpanel's experts to see if these matters can be resolved or further narrowed.
- 176 Glenpanel's submission and evidence also raise a concern in relation to water reservoirs on Slope Hill (within the ONF). Glenpanel considers that these resource consenting concerns are justification for moving the UGB above the 423 RL. In terms of the merits, Mr Brown's rebuttal evidence addresses the consenting pathway for water tanks and his opinion is that these would be 'utilities' rather than 'urban development', with a consenting pathway available.<sup>112</sup> Ms Gilbert has also maintained that the UGB should not be moved.<sup>113</sup> Both Mr Brown and Ms Gilbert also make reference to the Environment Court's decision in *Bridesdale Developments Limited*<sup>114</sup> which highlights the difficulties with amending the UGB to enable development in an ONF, particularly given the higher order direction in Objective 4.2.1 of the PDP.
- 177 Glenpanel is also seeking that the toe of Slope Hill be made available for some development. This appears to be on the basis that the toe of the hill is not part of the natural feature and that movement of the ONF may be appropriate as part of the SPP process<sup>115</sup> and that the lower southern slopes of the ONF display different landscape values. Ms Gilbert does not support this. Her rebuttal evidence explains the landscape effects associated with urban development on the Slope Hill ONF and highlights

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<sup>111</sup> Rebuttal evidence of Robin Miller dated 10 November 2023, at paragraph 13.

<sup>112</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraphs 185 to 189.

<sup>113</sup> Rebuttal evidence of Bridget Gilbert dated 24 November 2023, at paragraphs 13 to 18.

<sup>114</sup> *Bridesdale Developments Limited v Queenstown Lakes District Council* [2021] NZEnvC 189.

<sup>115</sup> Evidence of Werner Murray on behalf of Glenpanel dated 20 October 2023, at paragraph 29.



the effects of urban development across the lower southern slopes of the ONF, she maintains that the Slope Hill ONF boundary is in the correct location.<sup>116</sup>

### **Sanderson Group and Queenstown Commercial Limited (submitter 93)**

- 178 The Sanderson Group (and Queenstown Commercial Limited) (collectively referred to as **Sanderson Group**) generally supported the TPLM Variation<sup>117</sup> and a number of matters raised in their submission have been resolved.<sup>118</sup>
- 179 The Sanderson Group also sought that the location of parks be removed from the TPLM Structure Plan, and instead smaller parks be provided for.<sup>119</sup> As is stated in Ms Galavazi's primary and rebuttal evidence, she retains the view that open spaces need to be identified up front in the TPLM Structure Plan so that Council can strategically acquire appropriately sized reserves in appropriate locations.<sup>120</sup> Further, while smaller reserves can provide amenity, they are not large enough to adequately provide for most recreation activities or the associated recreation infrastructure.<sup>121</sup>
- 180 There are also some other areas of outstanding disagreement (integrated storm water solution, infrastructure work triggers, minimum density provisions, bulk and location provisions). These are addressed above and in Mr Brown's rebuttal. The Sanderson Group was also seeking that rule 49.5.39 limiting the gross floor area of office activities be deleted, or if not, increased to 350m instead of the current proposed 200m<sup>2</sup>. This appears to be one of the remaining issues in contention.

### **Maryhill Limited (submitter 105)**

- 181 Maryhill has landholdings within and surrounding the TPLM Variation. It's submission was largely in support, but with some noted relief sought. Their developer specific concerns are addressed above, for example

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<sup>116</sup> Rebuttal evidence of Bridget Gilbert dated 24 November 2023, at paragraphs 27 to 31.

<sup>117</sup> Submission of Sanderson Group and Queenstown Commercial Limited dated 9 June 2023, at paragraphs 1.8 and 3.0.

<sup>118</sup> For example by allowing super lots, changing visitor accommodation from non-complying to discretionary in the commercial precinct, and enabling residential flats in the TPLM Provisions.

<sup>119</sup> Evidence of Erin Stagg dated 20 October 2023, at paragraph 72.

<sup>120</sup> Rebuttal evidence of Jeannie Galavazi dated 10 November 2023, at paragraph 17.

<sup>121</sup> Rebuttal evidence of Jeannie Galavazi dated 10 November 2023, at paragraph 17.

that Rule 49.4.33 (Visitor Accommodation) be amended from non-complying to discretionary.

- 182 An outstanding concern of Maryhill, beyond some of the general developer concerns, is the seeking of a new rule to provide for storage activities as a controlled activity within a defined storage overlay area at the rear of the TPLM Zone against Slope Hill.<sup>122</sup> Following the Economic expert conferencing, Mr Brown was of the view that, along with appropriate urban design controls, it is suitable.<sup>123</sup> As noted by Mr Brown, the provision of storage may help to “kick-start” higher density development in the TPLM Zone.<sup>124</sup>
- 183 Mr Stalker has also raised concerns with the reserve contributions and that these should be embedded into the TPLM Zone subdivision provisions.<sup>125</sup> As Ms Galavazi in her rebuttal evidence explains, Council needs to be able to review and adapt the Development Contributions Policy to respond to the fast pace of development in the District and increase in land value, therefore does not support integration into the TPLM provisions.<sup>126</sup> It is noted that development contributions are a separate matter under the Local Government Act 2002, rather than being an RMA mechanism.

#### **Winter Miles Airstream Limited (submitter 94)**

- 184 Winter Miles Airstream Limited (**WMAL**) submission generally supports the TPLM Variation but notes specific concerns that certain aspects of the TPLM Variation are too prescriptive and overly restrictive.<sup>127</sup>
- 185 Aside from general TPLM Variation provisions (which are generally addressed above), WMAL specifically sought an allowance of 5,000m<sup>2</sup> (reduced to 2,500m<sup>2</sup> in the planning evidence of Brett Giddens) of Commercial Precinct to be provided on their land within the notified HDR Precinct to ensure that sufficient provision for commercial activity is made. This request is not supported by Ms Hampson, as a centre of

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<sup>122</sup> Evidence of Megan Justice dated 20 October 2023, at paragraph 44.

<sup>123</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraphs 133 to 134.

<sup>124</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 134.

<sup>125</sup> Evidence of Kristan Stalker dated 20 October, at paragraphs 24 to 25.

<sup>126</sup> Rebuttal evidence of Jeannie Galavazi dated 10 November 2023, at paragraph 25.

<sup>127</sup> Submission of Winter Miles Airstream Limited dated 9 June 2023, at paragraph 1.10.

that size would be a neighbourhood centre, and an inefficient use of land given its proximity to the notified Commercial Precinct.<sup>128</sup>

#### **Ladies Mile Property Syndicate (submitter 77)**

186 Ladies Mile Property Syndicate (**LMPS**) is generally supportive of the TPLM Variation, with noted developer-related concerns (including in relation to density) outlined above. Their original submission originally sought that the unformed legal road be zoned HDR Precinct. If the unformed legal road is stopped in the future it will be rezoned in accordance with the adjoining zone (being HDR Precinct), but until this occurs it is not appropriate to rezone.<sup>129</sup> LMPS also sought that the 20 metre amenity access area and building restriction area be reduced to 10 metres, which has likewise been rejected due to providing undesirable urban design outcomes.<sup>130</sup> The expert evidence for LMPS does not address these matters further.

#### **Queenstown Country Club Limited (submitter 106)**

- 187 The QCC site is currently zoned part Rural Zone (under the PDP) and part Shotover Country Special Zone (under the ODP), and was proposed to be rezoned to PDP LDSR Zone under the TPLM Variation.
- 188 QCC lodged a broad submission opposing the TPLM Variation in its entirety. QCC also sought the removal of the 75m BRA along the SH6 interface of the QCC land (along with existing tree protection) as notified on the Structure Plan.<sup>131</sup> Mr Brown maintains that the PDP LDSR Zone is still the most appropriate for the retirement village.<sup>132</sup>
- 189 It now appears (based on the expert evidence it has filed) that QCC's outstanding concerns relate to the 75m BRA only.<sup>133</sup> Mr Brown has recommended that the BRA should be reduced from 75m to 25m, based

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<sup>128</sup> Evidence of Natalie Hampson dated 27 September 2023, at paragraph 197; Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraphs 100 to 102; Rebuttal evidence of Natalie Hampson dated 10 November 2023, at paragraphs 35 to 37.

<sup>129</sup> s42A Report, at paragraph 12.51.

<sup>130</sup> s42A Report, at paragraph 12.56; evidence of Michael Lowe dated 29 September 2023, at paragraph 67.

<sup>131</sup> s42A Report, at paragraph 12.110.

<sup>132</sup> s42A Report, at paragraph 12.97.

<sup>133</sup> Evidence of Ben Farrell dated 20 October 2023.

on various experts' opinions<sup>134</sup> (noting a revised height limited provided by Mr Farrell of 6 metres down from 8 metres).<sup>135</sup> The subsequent urban design and transport conferencing has confirmed support for a maximum setback on the southern part of SH6 of 25m.<sup>136</sup>

### **Ladies Mile Pet Lodge Limited (submitter 78)**

- 190 Similarly to QCC, the Pet Lodge's submission was broadly framed, seeking that the TPLM Variation be refused.<sup>137</sup> The Pet Lodge's site is centrally located within the TPLM Variation area (see Appendix A).
- 191 While the Pet Lodge raised various concerns, the implications of the Key Crossing and Crossing Curtilage area appear to be central to their opposition to the TPLM Variation.<sup>138</sup> The expert evidence filed by the Pet Lodge only relates to this issue.
- 192 The preference is now for Howards Drive / SH6 intersection to be signalised rather than a roundabout.<sup>139</sup> As a result the Key Crossing notation on the Structure Plan is still desirable, but the location is flexible).<sup>140</sup> The Crossing Curtilage area is also no longer necessary, and has been removed from the Structure Plan, in agreement with the Pet Lodge's planner, Mr Freeman.<sup>141</sup> Therefore, it appears that specific concerns of the Pet Lodge as raised in expert evidence, have been resolved.

### **Mr David Finlin (submitter 101)**

- 193 Mr Finlin owns land located along the eastern boundary of the TPLM Variation. In response to this submission (and others), relating to the visual effect of the zone generally, the eastern boundary treatment of the

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<sup>134</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 83. Jeff Brown also relies on the evidence of Stuart Dun and the Transport JWS, dated 30 October 2023, attachment A, page 3.

<sup>135</sup> Planning JWS, dated 3 November 2023 (for Thursday 2 November only), attachment A, page 5.

<sup>136</sup> Combined Urban Design and Transport JWS, dated 24 November 2023, attachment A, page 9.

<sup>137</sup> Submission of Ladies Mile Pet Lodge dated 9 June 2023.

<sup>138</sup> Evidence of Scott Freeman dated 19 October 2023, at paragraph 33.

<sup>139</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 69.

<sup>140</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 69 to 70.

<sup>141</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 71 to 72.

TPLM Zone was reviewed by Council's urban design and landscape experts, and an alternative design was proposed.<sup>142</sup>

- 194 At the pre-hearing meeting, Mr Finlin noted he was largely comfortable with the changes proposed in the s42A Report.<sup>143</sup> Mr Finlin did raise some outstanding concerns at the meeting, including the size of the buffer zone and Collector Road B setback, parking on Collector Road B, whether the active travel link along the paper road was necessary and general traffic concerns.<sup>144</sup> To the extent Mr Finlin pursues these matters, the Council will address them in its reply.

### **Threepwood Farm Residents' Association and Threepwood Custodians Limited (submitter 33)**

- 195 Threepwood Farm Residents' Association and Threepwood Custodians Limited (**TCL**) (together **Threepwood**),<sup>145</sup> as well as various TCL residents filed submissions opposing the TPLM Variation.<sup>146</sup> Various concerns were raised, including traffic effects, the location for a proposed pumpstation, and stormwater effects on Lake Hayes (and Threepwood).
- 196 A further concern was the effects of the active trail link proposed along the paper road from the TPLM Variation Area to Marshall Avenue (within Threepwood) out to Lake Hayes. Mr Brown has responded to lay evidence on behalf of Threepwood which raised concerns of the paper road active travel link on the farming operation.<sup>147</sup> Mr Brown remains of the opinion that the use of the unformed legal road, with the right control mechanisms for pedestrian and farm crossings, is not an uncommon feature in New Zealand walkways, and should be able to function adequately to address these concerns.<sup>148</sup>

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<sup>142</sup> see Figure 7, s42A Report. s42A Report, paragraphs 12.74 to 12.83; evidence of Michael Lowe dated 29 September 2023, Figure 8 at page 28 and Figure 10 at page 40.

<sup>143</sup> Ladies Mile Pre-Hearing Meeting – Table of Submissions, at pages 37 to 38.

<sup>144</sup> Ladies Mile Pre-Hearing Meeting – Table of Submissions, at page 38.

<sup>145</sup> Submission of Threepwood Farm Residents Association and Threepwood Custodians Limited, dated 31 May 2023.

<sup>146</sup> Submission of L and D Anderson, dated 7 June 2023. Amanda Styris (submitter 40); Lloyd and Debbie Anderson (submitter 48) Romain Kuhm (submitter 64); Sarah and Blair O'Donnell (submitter 67); Travis Sydney (submitter 110); Kirsty and Justin Crane (submitter 115); Louise and Philip Keoghan (submitter 120).

<sup>147</sup> Evidence of Jon G. Newson dated 17 October 2023.

<sup>148</sup> Rebuttal evidence of Jeff Brown dated 10 November 2023, at paragraph 201.

- 197 With regards to the location of the pumpstation – the earmarked location in the Three Waters Infrastructure Report for a proposed pumpstation was mistakenly identified as a Council-owned site, when it is owned by Threepwood. While Ms Prestidge agrees that location is the preferred location, it is not a requirement of the TPLM Variation, and an alternative location will need to be identified if agreement cannot be reached.<sup>149</sup>

### **Witnesses and conclusion**

- 198 The witnesses being called by QLDC in support of the TPLM Variation are outlined in **Appendix C** to these submissions.
- 199 The TPLM Variation represents a compelling opportunity for QLDC. Whilst the challenges of enabling development of Te Pūtahi Ladies Mile are acknowledged, the Council is confident that these matters can be addressed and looks forward to engaging with the Hearing Panel and submitters through the hearing process.

**Dated** 24 November 2023



L F de Latour | K H Woods

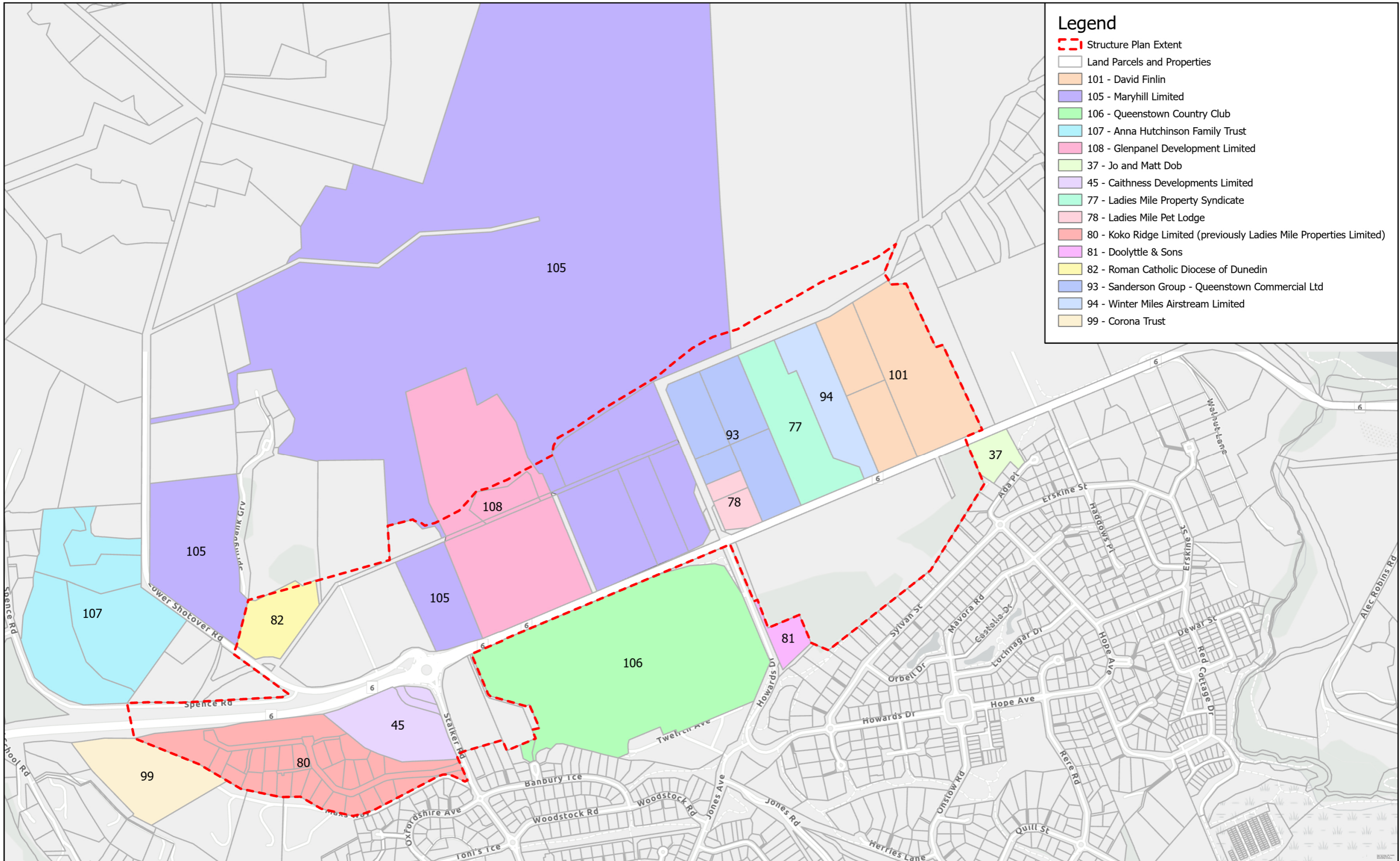
**Counsel for Queenstown Lakes District Council**

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<sup>149</sup> Evidence of Amy Prestidge dated 29 September 2023, at paragraph 28.

## **APPENDIX A – DEVELOPER LAND INTERESTS**

# TPLM - Developer Land Interests



**Legend**

- Structure Plan Extent
- Land Parcels and Properties
- 101 - David Finlin
- 105 - Maryhill Limited
- 106 - Queenstown Country Club
- 107 - Anna Hutchinson Family Trust
- 108 - Glenpanel Development Limited
- 37 - Jo and Matt Dob
- 45 - Caithness Developments Limited
- 77 - Ladies Mile Property Syndicate
- 78 - Ladies Mile Pet Lodge
- 80 - Koko Ridge Limited (previously Ladies Mile Properties Limited)
- 81 - Doolittle & Sons
- 82 - Roman Catholic Diocese of Dunedin
- 93 - Sanderson Group - Queenstown Commercial Ltd
- 94 - Winter Miles Airstream Limited
- 99 - Corona Trust

The information provided on this map is intended to be general information only. While considerable effort has been made to ensure that the information provided on this map is accurate, current and otherwise adequate in all respects, Queenstown Lakes District Council does not accept any responsibility for content and shall not be responsible for, and excludes all liability, with relation to any claims whatsoever arising from the use of this map and data held within.





## APPENDIX B – LEGAL FRAMEWORK AND JURISDICTIONAL ISSUES

- 1 This appendix:
  - (a) Provides an overview of the streamlined planning process.
  - (b) Sets out the legal framework as applicable to the Hearing Panel's recommendations to the Minister for the Environment (**Minister**) on the TPLM Variation.
  - (c) Addresses the jurisdictional tests relevant to considering both whether a submission on "on" the TPLM Variation and whether relief sought falls within the scope of submission on the TPLM Variation.

### Overview of the Streamlined Planning Process

- 2 The TPLM Variation is being processed using the SPP, under Part 5 of Schedule 1 of the RMA.<sup>1</sup>
- 3 QLDC applied to the Minister to use a SPP under section 80C and clause 75 of Schedule 1 of the RMA. The Minister gazetted the direction for QLDC to use the SPP in relation to the TPLM Variation on 30 March 2023 (**Direction**).<sup>2</sup>
- 4 In the Direction, the Minister also set out a Statement of Expectations (**SOE**) for the TPLM Variation. The SOE sets out expectations for the substance of the TPLM Variation as well as how the SPP is to be undertaken. The Minister's SOE stated that:<sup>3</sup>

The expectations of the Minister for the Environment are that the proposed Te Pūtahi Ladies Mile Plan Variation:

- i. contributes to providing sufficient opportunities for the development of housing and business land to ensure a well-functioning urban environment including maximising opportunities to enable housing, particularly of the typologies identified as a shortfall in Queenstown's Housing Development Capacity Assessment 2021 (housing suitable for older

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<sup>1</sup> The requirements of the SPP are also set out in ss 80B and 80C RMA.

<sup>2</sup> "The Resource Management (Direction to Queenstown Lakes District Council to Enter the Streamlined Planning Process for a Proposed Variation to the Queenstown Lakes District Plan – Proposed Te Pūtahi Ladies Mile Plan Variation) Notice 2023" (30 March 2023) *New Zealand Gazette* No 2023-go1172. Pursuant to clause 78 and 79(2) of Schedule 1 of the RMA (**Direction**).

<sup>3</sup> Direction, Statement of Expectations.

households, smaller households, and lower and lower-middle income households):

- ii. ensures that future development will be undertaken in a manner which recognises the limitations of the existing transport network in this location:
- iii. ensures appropriate and feasible infrastructure is provided for in Te Pūtahi Ladies Mile Zone, including stormwater management that allows for future climate change impacts, and access to everyday needs through transport options that support emissions reduction (such as public and/or active transport):
- iv. ensures future development will be undertaken in a manner that recognises and protects sensitive receiving environments including in particular Slope Hill, Waiwhakaata / Lake Hayes and the Shotover River.

The expectations of the Minister for the Environment for Queenstown Lakes District Council are that in undertaking the Streamlined Planning Process as directed the Council will:

- i. continue to engage with Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima, Te Rūnaka o Waihōpai and Waka Kotahi/New Zealand Transport Agency throughout the streamlined planning process:
- ii. place on a publicly accessible website the dates and anticipated timeframes for the process steps (with updates as necessary).

- 5 Under clause 82(1)(a) of Schedule 1 of the RMA, the Council is required to comply with all terms of the Direction (including the SOE).
- 6 Under clause 82(1)(b) of Schedule 1 of the RMA, the Council was also required to “have regard” to the SOE when preparing the TPLM Variation. The Council therefore submits it is relevant for the Panel to consider the SOE when making its recommendation to the Minister.
- 7 The Direction also sets out relevant timeframes for use of the SPP for the TPLM Variation. In relation to the Hearing Panel’s responsibilities, the Direction provides that:
  - (a) A public hearing is to be held under clause 8B of Schedule 1 RMA (to the extent applicable) with the length to be determined by the number of submissions received and outcome of expert conferencing; and
  - (b) The Hearing Panel shall prepare a report to the Minister detailing how submissions have been considered and recommended changes (if any) as a result of submissions, including a section

32AA report if required. The Hearing Panel must also submit the Hearing Panel report and documents to the Minister as required by clause 83(1)(a) – (g) of Schedule 1 of the RMA, for the Minister’s consideration. These documents are:<sup>4</sup>

- (c) The final proposed TPLM Variation, including any recommendations;
  - (d) A summary report of the written submissions; and
  - (e) A report showing how submissions have been considered and any modifications made to the TPLM Variation in light of the submissions; and
  - (f) The evaluation reports required by sections 32 and 32AA; and
  - (g) A summary document showing how the Council has had regard to the SOE; and
  - (h) A summary document showing how the TPLM Variation complies with the requirements of –
    - (i) Any relevant national direction; and
    - (ii) The RMA, and any regulations made under the RMA.
- 8 Before submitting these documents to the Minister, the Hearing Panel must notify these documents to the Council and submitters to enable comments. However, comments are limited to correction of minor or technical errors or omissions and comments cannot be made on the Hearing Panel’s recommendation or reasons for its recommendation.<sup>5</sup>

#### *The Minister’s Decision*

- 9 After considering the documents provided, and pursuant to clause 84 of Schedule 1 of the RMA, the Minister will make a decision on the TPLM Variation. To do so, the Minister will refer the TPLM Variation back to the Council with:<sup>6</sup>
- (a) His or her approval;

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<sup>4</sup> Gazette, direction 11 – 12. RMA, Schedule 1, clause 83(1)(a).

<sup>5</sup> Gazette, direction 12.

<sup>6</sup> RMA, Schedule 1, clause 84(1).

- (b) Specific recommendations for further consideration;<sup>7</sup> or
  - (c) Declining to approve the TPLM Variation.
- 10 In deciding which of the above actions to take, the Minister must have regard to:<sup>8</sup>
- (a) Whether the Council has complied with the procedural requirements, including timeframes, required by the Direction; and
  - (b) Whether, and if so, how the Council –
    - (i) Has had regard to the SOE; and
    - (ii) Has met the requirements of the Act, regulations made under it, and any relevant national direction.
- 11 The Minister may have regard to:<sup>9</sup>
- (a) The purpose of the SPP; and
  - (b) Any other matter relevant to the Minister’s decision.
- 12 The Minister’s decision must be in writing with reasons, and served on the Council.<sup>10</sup> There is no right of appeal against the decision of the Minister under the SPP for the TPLM Variation.
- 13 In accordance with the Minister’s directions and the Hearing Panel’s directions in Hearing Panel Directions 1:
- (a) The TPLM Variation was notified on the 27 April 2023;
  - (b) 124 submissions, and 25 further submissions were received;
  - (c) Council prepared a section 42A report to assist the Panel with making its recommendations (**s 42A Report**), supported by seventeen statements of technical evidence;<sup>11</sup>
  - (d) Submitters filed statements of evidence;
  - (e) Expert witness conferencing occurred in relation to: Transport, Landscape (including a separate session on the Slope Hill

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<sup>7</sup> If the Minister refers the TPLM Variation back to QLDC for further consideration, clause 86, Schedule 1, RMA, specifies the process that will be undertaken.

<sup>8</sup> RMA, Schedule 1, clause 84(2).

<sup>9</sup> RMA, Schedule 1, clause 84(3).

<sup>10</sup> RMA, Schedule 1, clause 84(4).

<sup>11</sup> Section 42A Report, dated 29 September 2023.

Outstanding Natural Feature (**ONF**)), Economics, Urban Design, Infrastructure, and Planning;

- (f) QLDC filed rebuttal evidence (on matters not resolved through conferencing); and
- (g) Submitters filed questions of experts, which have been answered.

### **Statutory Framework for the TPLM Variation**

- 14 Sections 72 to 77 of the RMA set out the statutory framework for district plan variations.
- 15 A summary of district plan requirements (which applies to district plan variations) including the requirements of evaluation reports under section 32 RMA, was set out by the Environment Court in *Colonial Vineyard Ltd v Marlborough District Council*.<sup>12</sup> An updated summary of district plan variation requirements that incorporates amendments made to the relevant RMA provisions since *Colonial Vineyard* is summarised as follows.

#### *General requirements of a plan variation*

- 16 A district plan variation must be designed to *accord with*<sup>13</sup> – and assist the territorial authority to carry out – its functions<sup>14</sup> so as to achieve the purpose of the Act.<sup>15</sup>
- 17 A district plan variation must also be prepared *in accordance* with any regulation<sup>16</sup> and any direction given by the Minister for the Environment (i.e. the Minister’s Direction to use the Streamlined Planning Process for the TPLM Variation, as summarised above)<sup>17</sup>
- 18 Further, a district plan variation *must give effect to*<sup>18</sup> any national policy statement, and any national planning standards. Give effect to is a strong direction. It means implement.<sup>19</sup>

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<sup>12</sup> *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at 17.

<sup>13</sup> RMA, s 74(1).

<sup>14</sup> As described in s 31 of the RMA.

<sup>15</sup> RMA, ss 72 and 74(1)(a) and (b).

<sup>16</sup> RMA, s 74(1)(f).

<sup>17</sup> RMA, s 74(1)(c).

<sup>18</sup> RMA, s 75(3)(a),(b) and (ba).

<sup>19</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company* [2014] 1 NZLR 593 (SC) at [77].

- 19 When *preparing* the TPLM Variation, the Council, as the territorial authority shall:
- (a) *give effect to* any operative regional policy statement (i.e. the Partially Operative Otago Regional Policy Statement 2019);<sup>20</sup> and
  - (b) *have regard to* any proposed regional policy statement (i.e. the Proposed Otago Regional Policy Statement 2021).<sup>21</sup>
- 20 In relation to regional plans, the TPLM Variation must *not be inconsistent* with an operative regional plan for any matter specified in section 30(1).<sup>22</sup>
- 21 The TPLM Variation *must have regard to* any proposed regional plan on any matter of regional significance or for which the regional council has primary responsibility under Part 4.<sup>23</sup>
- 22 When preparing the TPLM Variation, under section 74 of the RMA the Council must also:
- (a) *have regard to*:<sup>24</sup>
    - (i) any relevant management plans and strategies under other Acts,<sup>25</sup> any relevant entry in the Historic Places Register/Rārangi Kōrero,<sup>26</sup> various fisheries regulations,<sup>27</sup> any emissions reduction plan and any national adaptation plan,<sup>28</sup> to the extent that their content has a bearing on the TPLM Variation; and
    - (ii) the extent to which the TPLM Variation needs to be consistent with plans or proposed plans of adjacent territorial authorities.<sup>29</sup> The adjacent territorial authorities include the

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<sup>20</sup> RMA, s 75(3)(c).

<sup>21</sup> RMA, s 74(2)(a)(i).

<sup>22</sup> RMA, s 75(4)(b).

<sup>23</sup> RMA, s 74(2)(a)(ii).

<sup>24</sup> RMA, s 74(d) and (e).

<sup>25</sup> RMA, s 74(2)(b)(i).

<sup>26</sup> RMA, s 74(2)(b)(iia).

<sup>27</sup> RMA, s 74(2)(b)(iii).

<sup>28</sup> Refer to the Section 32 Report at paragraphs 1.42 – 1.51 for discussion on how the TPLM Variation has had regard to the Aotearoa New Zealand's First Emissions Reduction Plan and First National Adaptation Plan.

<sup>29</sup> RMA, s 74(2)(c).

Central Otago, Westland and Southland District Councils;  
and

- (b) *take into account* any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district.<sup>30</sup> The following iwi management plans are relevant to the TPLM Variation:
- (i) The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008; and
  - (ii) Kāi Tahu ki Otago Natural Resource Management Plan 2005; and
- (c) not have regard to trade competition or the effects of trade competition.<sup>31</sup>

23 “Have regard to” requires the decision-maker to give genuine attention and thought to the matter.<sup>32</sup>

24 “Take into account” requires that the decision-maker must address the matter and record it has been addressed in the decision; but the weight of the matter is for the decision-makers’ judgment in light of the evidence.<sup>33</sup> A district plan variation must<sup>34</sup> also state its objectives, policies and the rules (if any) and may state other matters.<sup>35</sup>

*Objectives [the section 32 test for objectives]*

25 Each proposed objective in the district plan variation is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act.<sup>36</sup> Accordingly, the proposed TPLM Variation provisions must be examined in accordance with section 32 as to whether they are the most appropriate way to achieve the objectives of the proposal, being the TPLM Variation.<sup>37</sup>

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<sup>30</sup> RMA, s 74(2A).

<sup>31</sup> RMA, s 74(3).

<sup>32</sup> *Unison Networks Ltd v Hastings District Council* [2011] NZRMA 394 (HC) at [70].

<sup>33</sup> *Unison Networks Ltd v Hastings District Council* [2011] NZRMA 394 (HC) at [70].

<sup>34</sup> RMA, s 75(1).

<sup>35</sup> RMA, s 75(2).

<sup>36</sup> RMA, ss 74(1) and 32(1)(a).

<sup>37</sup> RMA, s 32(1)(b).

- 26 The term “most appropriate” does not mean the superior method, but means the “most suitable”.<sup>38</sup>

*Policies and methods (including rules) [the section 32 test for policies and rules]*

- 27 The policies are to implement the objectives, and the rules (if any) are to implement the policies.<sup>39</sup>
- 28 Section 32 requires a value judgment as to what, on balance, is the most appropriate (i.e., most suitable) provision when measured against the relevant objectives. We submit this means the objectives of the TPLM as a whole without giving primacy to one objective.<sup>40</sup>
- 29 Specifically, each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate (i.e., suitable) method for achieving the objectives<sup>41</sup> of the district plan variation taking into account:
- (a) the benefits and costs of the environmental, economic, social and cultural effects anticipated from the implementation of the proposed provisions;<sup>42</sup> and
  - (b) if practicable, quantify the benefits and costs;<sup>43</sup> and
  - (c) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.<sup>44</sup>

*Rules*

- 30 In making a rule the Council must have regard to the actual or potential effect of activities on the environment including, in particular, any adverse effect.<sup>45</sup>
- 31 Rules have the force of regulations.<sup>46</sup>

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<sup>38</sup> *Rational Transport Society Inc v New Zealand Transport Agency* [2012] NZRMA 298 at [45].

<sup>39</sup> RMA, s 75(1)(b)-(c) and s 76(1).

<sup>40</sup> *Rational Transport Society Inc v New Zealand Transport Agency* [2012] NZRMA 298 at [46].

<sup>41</sup> RMA, s 32(1)(b).

<sup>42</sup> RMA, s 32(2)(a).

<sup>43</sup> RMA, s 32(2)(b).

<sup>44</sup> RMA, s 32(2)(c).

<sup>45</sup> RMA, s 76(3).

<sup>46</sup> RMA, s 76(2).



- 32 Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive<sup>47</sup> than those under the Building Act 2004.
- 33 There are special provisions for rules about contaminated land.<sup>48</sup>
- 34 There must be no blanket rules about felling of trees<sup>49</sup> in any urban environment.<sup>50</sup>

*Other statutes*

- 35 Finally, territorial authorities may be required to comply with other statutes.<sup>51</sup>

**National Policy Statements**

- 36 As stated above, under section 75(3)(a), the TPLM Variation must give effect to National Policy Statements (**NPS**). The relevant NPSs are:
- (a) NPS for Highly Productive Land (**NPS-HPL**);
  - (b) NPS for Indigenous Biodiversity (**NPS-IB**);
  - (c) NPS for Freshwater Management (**NPS-FW**); and
  - (d) NPS for Urban Development (**NPS-UD**).
- 37 The Council's s42A Report addresses how the TPLM Variation gives effect to the TPLM Variation in detail at paragraphs 7.25 – 7.55. Accordingly, these submissions will not repeat the analysis contained in the s42A Report, but will highlight the key points.

*NPS-HPL*

- 38 The NPS-HPL came into effect on 17 October 2022 and gives direction on how local authorities must manage highly productive land.
- 39 With respect to timing, the NPS-HPL provides that:
- (a) “[e]very local authority must give effect to this National Policy Statement on and from the commencement date”; and

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<sup>47</sup> RMA, s 76(2A).

<sup>48</sup> RMA, s 76(5).

<sup>49</sup> RMA, s 76(4A).

<sup>50</sup> RMA, s 76(4B).

<sup>51</sup> *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [17].

- (b) “[e]very territorial authority must notify changes to objectives, policies, and rules in its district plan to give effect to this National Policy Statement ... as soon as practicable, but no later than 2 years after maps of highly productive land in the relevant regional policy statement become operative.”<sup>52</sup>
- 40 In the interim before this mapping occurs, under clause 3.5(7), the NPS-HPL applies to land zoned general rural or rural production that is Land Use Capability (**LUC**) class 1, 2, or 3 soil, but does not apply to land:
- (a) Identified for future urban development; or
- (b) Subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.
- 41 While parts of the TPLM Variation Area are zoned rural and are LUC 2 soil, as set out in the s 42A Report at paragraphs 7.30 – 7.35, the TPLM Variation is an area “identified for future urban development” under cl 1.3 of the NPS-HPL. Therefore the NPS-HPL does not apply the TPLM Variation Area.

#### *NPS-IB*

- 42 The NPS-IB came into force on 4 August 2023 and its objective is to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date. The NPS-IB provides that:<sup>53</sup>
- (a) “[e]very local authority must give effect to this National Policy Statement as soon as reasonably practicable”; and
- (b) “[l]ocal authorities must publicly notify any changes to their policy statements and plans that are necessary to give effect to this National Policy Statement within eight years after the commencement” which is 17 October 2030.<sup>54</sup>

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<sup>52</sup> NPS-HPL, clause 4.1.

<sup>53</sup> NPS-IB, clause 4.1.

<sup>54</sup> We note that clause 4.2 of the NPS-IB provides that local authorities must publicly notify any plan or change necessary to give effect to subpart 2 of Part 3 (significant natural areas) and clause 3.24 (information requirements) within five years after the commencement date which is 17 October 2027.

- 43 As the NPS-IB came into force after the TPLM Variation was notified, the TPLM must give effect to the NPS-IB to the extent that submissions on the TPLM Variation provide scope to do so (and to the extent it is reasonably practicable).<sup>55</sup>
- 44 Clause 3.8(1) and 3.8(2) require that every territorial authority undertake a district-wide assessment to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as a Significant Natural Area (**SNA**), using the assessment criteria in Appendix 1 of the NPS-IB. The NPS-IB also states that if a territorial authority becomes aware of an area that qualifies as an SNA (through any means which includes the TPLM Variation), then this is to be identified in the next appropriate plan change.
- 45 As set out at paragraphs 7.36 – 7.46 of the s42A Report, the Council considers that:
- (a) Specified highly mobile fauna (native bird species) are present on the TPLM Variation Area, but this area is not a SNA;
  - (b) While the effects management hierarchy applies, the TPLM Variation provisions ensure that effects will be mitigated to an acceptable level.

#### *NPS-FM*

- 46 The NPS-FM together with its associated National Environmental Standard (**NES-FW**) requires freshwater to be managed in a way that gives effect to Te Mana o te Wai.
- 47 In implementing and giving effect to the NPS-FM and NES-FW, local authorities must actively involve tangata whenua in freshwater management including in the development of district plans (clause 3.4) and ensure that freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis (Policy 3).

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<sup>55</sup> Refer to *Wakatipu Equities Ltd v Queenstown Lakes District Council* [2023] NZEnvC 188; and *Hawke's Bay and Eastern Fish and Game Council v Hawke's Bay Regional Council* [2014] NZHC 3191.

*NPS-UD*

- 48 The NPS-UD came into effect on 20 August 2020. The NPS-UD has eight objectives, which in summary, seek to achieve well-functioning urban environments that enable residential and business development to meet expected demand, and in the right locations to meet social, economic, and cultural wellbeing, and health and safety.
- 49 As set out in the s 42A Report at paragraphs 7.50 – 7.55, the Council has considered how the TPLM Variation achieves and enables a well-functioning urban environment when preparing the TPLM Variation, taking into account the location and adjacency of existing suburban communities and infrastructure.

**Other legislative matters***National Environmental Standards*

- 50 As stated in paragraphs 7.56 – 7.58 of the s42A Report, the TPLM Variation is required to be consistent with the National Environmental Standards (**NES**) under section 44A of the RMA. We note that the NES for Assessing and Managing Contaminants in Soil to Protect Human Health will be required to be addressed as necessary through the resource consent process.

*National Planning Standards*

- 51 As stated in paragraphs 7.59 – 7.62 of the s42A Report, the TPLM Variation is required to give effect to national planning standards under section 75(3)(ba). While the TPLM Variation has not been developed in accordance with the required format of the national planning standards, this will be undertaken when the Council's Proposed District Plan as a whole is transitioned to the standards' conventions.

**Legal framework for jurisdictional matters**

- 52 The Hearing Panel, before recommending any amendments to the TPLM Variation, must consider whether there is scope to make to make said amendments. In doing so, the Hearing Panel must consider:
- (a) Whether submissions received are “on” the TPLM Variation; and
  - (b) Secondly, whether any amendments are within the scope of a submission such that the Court has jurisdiction to make the amendments.

53 The Hearing Panel can also recommend amendments to the TPLM Variation that are of minor effect, or to correct any minor errors in accordance with clause 16(2) of Schedule 1 of the RMA.<sup>56</sup> We now set out the relevant principles established by case law that apply to scope under the RMA, as they relate to the SPP.

#### **Legal framework for submissions being “on” the TPLM Variation**

54 Section 80B of the RMA sets out the purpose, scope and application of Schedule 1 in terms of the SPP. Of relevance, section 80B specifically states that clause 6 of Schedule 1 applies to the SPP. Clause 6 states that:

(1) Once a proposed policy statement or plan is publicly notified under clause 5, the persons described in subclauses (2) to (4) may make a submission **on** it to the relevant local authority.

55 It is a well-established principle, grounded in clause 6, that if a submission is not “on” a plan change, then the decision maker does not have jurisdiction to consider the submission.<sup>57</sup>

56 The Courts have endorsed a bipartite approach when considering whether a submission is “on” a plan change, namely (*Motor Machinists Test*):<sup>58</sup>

- (a) Is the relief sought in the challenged submission incidental to, consequential upon, or (perhaps) directly connected to the plan change (or variation)? (**First Limb**)
- (b) Have potential submitters been given fair and adequate notice of what is proposed in the submission or has their right to participate been removed? (**Second Limb**)

57 If a management regime in a planning document for a particular resource is unaltered by the proposed change, a submission seeking a

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<sup>56</sup> Resource Management Act 1991, s 80B(2).

<sup>57</sup> *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [19].

<sup>58</sup> *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [90], endorsing the approach of William Young J in *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003. This test has been applied more recently, including since amendments to the RMA such as the insertion of s 32AA have been made. For example, see *Mackenzie v Tasman District Council* [2018] NZHC 2304 for a more recent High Court application of the test. See also *Paterson Pitts Limited Partnership v Dunedin City Council* [2022] NZEnvC 234 for a more recent example of the test being applied.

new or different management regime for that resource is unlikely to be “on” the proposed plan change.<sup>59</sup>

- 58 If the effect of regarding a submission as being “on” a proposed change would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, that will be a “powerful consideration” against finding that the submission was truly “on” the proposed change.<sup>60</sup>

*First Limb considerations*

- 59 The First Limb ‘serves as a filter’, based on the connection between the submission and the degree of notified change proposed.<sup>61</sup> Kós J expanded on the First Limb, explaining that:<sup>62</sup>

In other words, the **submission must reasonably be said to fall within the ambit of the plan change**. One way of analysing this is to ask **whether the submission raises matters that should have been addressed in the s 32 evaluation and report**. If so the submission is unlikely to fall within the ambit of the plan change. Another is to ask **whether the management regime in a district plan for a particular resource ... is altered by the plan change**. If it is not, then the submissions seeking a new management regime for that resource is unlikely to be ‘on’ the plan change. ... **Incidental or consequent extensions of zoning changes proposed in the plan change are permissible, provided that no substantial further s 32 analysis is required to inform affected person of the comparative merits of that change**.

(emphasis added)

- 60 Put another way, this First Limb analysis can be summarised as:<sup>63</sup>
- (a) Asking whether the submission raises matters that should have been addressed in the s 32 evaluation and report. If so, the submission is unlikely to fall within the ambit of the plan change; or
  - (b) Alternatively, ask whether the management regime in a district plan for a particular resource (such as a particular lot) is altered by the plan change. If it is not, a submission seeking a new management regime for that resource is unlikely to be ‘on’ the plan change.

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<sup>59</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [91].

<sup>60</sup> *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003 at [66].

<sup>61</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [80].

<sup>62</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

<sup>63</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

61 Section 32 Reports are a key factor in assessing the First Limb. Section 32 Reports provide a comparative evaluation of the efficiency, effectiveness and appropriateness of options, describing a “core purpose” of the plan change process being to ensure that persons potentially affected, and in particular, those “directly affected” are adequately informed.<sup>64</sup> In *Motor Machinists*, Kós J noted that:<sup>65</sup>

Further variations advanced by way of submission, to be ‘on’ the proposed change, should be adequately assessed already in that evaluation. If not, then they are unlikely to meet the first limb in *Clearwater*.

62 There has also been case law on rezoning submissions, for land outside the boundaries of the plan change. This was the submission being dealt with in *Motor Machinists*, where the some of the central business district’s land was being rezoned, and the applicant sought a small enclave of geographically isolated land to be included within the plan change. Kós J explained that:<sup>66</sup>

...Incidental or consequent extensions of zoning changes proposed in the plan change are permissible, provided that no substantial further s 32 analysis is required to inform affected person of the comparative merits of that change.

63 The rationale for not allowing zoning extensions, is that the submission process is not designed as a vehicle to make significant changes to the management regime applying to a resource not already addressed by the plan change. As Kós J explained:<sup>67</sup>

...Permitting the public to enlarge significantly the subject matter and resource to be addressed through the Schedule 1 plan change process beyond the original ambit of the notified proposal is **not an efficient way of delivering plan changes. It transfers the cost of assessing the merits of the new zoning of private land back to the community**, particularly where shortcutting results in bad decision making.

(emphasis added)

64 Further, as noted in the High Court:<sup>68</sup>

...Simply because there **may be an adjustment to a zone boundary in a proposed variation does not mean any submission that advocates expansion of a zone must be on the variation...**

(emphasis added)

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<sup>64</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [76].

<sup>65</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [82].

<sup>66</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [79].

<sup>67</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [79].

<sup>68</sup> *Option 5 Inc v Marlborough District Council* HC Blenheim CIV 2009-406-144, 28 September 2009 at [38].

65 An additional factor in *Motor Machinists*, is whether there are alternative options for a landowner if a submission is found not to be 'on' the plan change.<sup>69</sup> As explained by Kós J, where a landowner is dissatisfied with a regime governing their land, they have three principal choices:<sup>70</sup>

- (a) They may seek a resource consent;
- (b) They may seek to persuade their council to promulgate a plan change; and
- (c) They may themselves, seek a private plan change under Schedule 1, Part 2.

66 The benefit of these options is that:<sup>71</sup>

... [a resource consent] application will be accompanied by an assessment of environment effects and directly affected parties should be notified. Each of the second and third options requires a s 32 analysis. Directly affected parties will then be notified of the application for a plan change. **All three options provide procedural safeguards for directly affected people in the form of notification, and a substantive assessment of the effects or merits of the proposal.**

(emphasis added)

67 This is in contrast to the schedule 1 submission process, which lacks the procedural and substantial safeguards outlined above.<sup>72</sup> As a result of this, it requires a very careful approach to the *Motor Machinists* test, especially where there are alternative options available to landowners.

### *Second Limb Considerations*

68 The Second Limb is underpinned by natural justice concerns.<sup>73</sup> The rationale for the Second Limb, as described by Kós J in *Motor Machinists* is so that:<sup>74</sup>

... a person not directly affected at one stage (so as not to have received notification initially under clause 5(1A)) might then find themselves directly affected but speechless at a later stage by dint of a third party submission not directly notified as it would have been had it been included in the original instrument

69 The analysis is focused on assessing whether there is a real risk that persons directly or potentially affected by the additional changes

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<sup>69</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [78].

<sup>70</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [78].

<sup>71</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [78].

<sup>72</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [79].

<sup>73</sup> *Paterson Pitts Limited Partnership v Dunedin City Council* [2022] NZEnvC 234 at [78].

<sup>74</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [77].



proposed in the submission have been denied an effective response to those additional changes in the plan change process.<sup>75</sup>

- 70 While the further submission process can cure some of the prejudice to third parties, it is not always appropriate.<sup>76</sup> This is because Council is not required to directly serve the summary of decisions requested on potentially affected parties. If potentially affected parties do not review the Council's summary of submissions received, then they may not participate in the process.

#### **Amendments within the scope of a submission**

- 71 Pursuant to the Minister for the Environment's Direction, the Hearings Panel must prepare a report showing how submissions have been considered and any modifications made to the TPLM Variation "in light of submissions".
- 72 Council's understanding is that the standard Schedule 1 approach of the RMA requiring any amendments to a plan change or variation being within the scope of submissions applies under the SPP.
- 73 The intensification planning process under Part 6 of Schedule 1, has an explicit caveat to this requirement, whereby the Hearing Panel's recommendations are not limited to being within the scope of submissions made on the intensification planning instrument.<sup>77</sup> There is no equivalent caveat under the SPP, therefore Council contends that the Hearing Panel is limited in its scope of what it can recommend as per the normal Schedule 1 assumption.
- 74 Within the context of the SPP, it is the Minister for the Environment that makes the ultimate decision, with the Hearing Panel making a recommendation to the Minister. It is Councils submission that the Hearing Panel should only make recommendations that are within scope.

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<sup>75</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [82].

<sup>76</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [74]-[83].

<sup>77</sup> Resource Management Act 1991, schedule 1, clause 99(2).

- 75 Case law has established that for an amendment to be considered within the scope of a submission, the amendment must be fairly and reasonably within the general scope of:<sup>78</sup>
- (a) An original submission; or
  - (b) The proposed change as notified; or
  - (c) Somewhere in between.
- 76 The question of whether an amendment goes beyond what is reasonably and fairly raised in submissions will usually be a question of degree, to be judged by the terms of the proposed change and the content of submissions.<sup>79</sup>
- 77 This should be approached in a realistic and workable fashion rather than from the perspective of legal nicety,<sup>80</sup> with consideration of the whole relief package detailed in submissions.<sup>81</sup>

#### **The use of clause 16(2), schedule 1 to the RMA**

- 78 The Hearing Panel also has the ability to recommend amendments to the TPLM Variation in accordance with clause 16(2) of Schedule 1 of the RMA.<sup>82</sup> Clause 16(2) provides for alterations that are of minor effect, or to correct any minor errors.
- 79 The scope of any such amendments is limited to those which would be neutral, and therefore do not affect the rights of members of the public.
- 80 Further, the power to correct minor errors is limited to changes that would not alter the meaning of the document (such as typographical or cross-referencing errors).<sup>83</sup>

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<sup>78</sup> *Re Vivid Holdings Ltd* (1999) 5 ELRNZ 264 at [19].

<sup>79</sup> *Countdown Properties (Northlands) Ltd v Dunedin City Council* [1994] NZRMA 145 (HC).

<sup>80</sup> *Royal Forest and Bird Protection Society Incorporated v Southland District Council* [1997] NZRMA 408, at 413.

<sup>81</sup> *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ 59 at [58]-[60].

<sup>82</sup> *Re an Application by Christchurch City Council* (1996) 2 ELRNZ 431 (EnvC) at 11.

<sup>83</sup> *Re an Application by Christchurch City Council* (1996) 2 ELRNZ 431 (EnvC) at 11.

**APPENDIX C – QLDC WITNESSES**

- 1 QLDC has called the following witnesses in support of the TPLM Variation:
  - (a) Susan Fairgray, Residential Economics;
  - (b) Natalie Hampson, Retail Economics;
  - (c) Stuart Dun, Urban Design (focusing on the TPLM Structure Plan including setbacks and rezoning requests);
  - (d) Michael Lowe, Urban Design (focusing on bulk and location rules and the structure plan);
  - (e) Bruce Harland, Urban Design (focusing on masterplanning and rezoning requests);
  - (f) Jeannie Galavazi, Open Space and Recreation;
  - (g) Colin Shields, Traffic;
  - (h) Tony Pickard, Traffic (the Way to Go Partnership, Ladies Mile Transport Strategy, and transport initiatives provided by QLDC);
  - (i) John Gardiner, stormwater infrastructure;
  - (j) Amy Prestidge, three waters infrastructure;
  - (k) Dawn Palmer, Ecology;
  - (l) Stephen Skelton, Landscape;
  - (m) Bridget Gilbert, Slope Hill landscape;
  - (n) Robin Miller, Heritage;
  - (o) Jeffrey Brown, Planning;
  
- 2 In accordance with the indication given in the Council's memorandum of counsel dated 15 November 2023, Mr Beardmore (contaminated land) and Mr Wilson (geotechnical matters) are not being called, but are available to answer any questions that the Hearing Panel may have.