



**HEARING PANEL RECOMMENDATION ON  
PLAN CHANGE 37: QUAIL RISE ESTATE LIMITED PRIVATE PLAN CHANGE**

Report and Recommendation of L Overton and C Gilmour, acting as Commissioners  
appointed by the Queenstown Lakes District Council pursuant to Section 34 of the  
Resource Management Act 1991

**HEARING HELD: 29 SEPTEMBER 2010**  
**REPORT DATED: 22 NOVEMBER 2010**  
**RATIFIED BY COUNCIL: 17 DECEMBER 2010**

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## 1.0 INTRODUCTION

This report sets out the considerations and recommendations of the Hearing Commissioners on submissions lodged on Plan Change 37 – Quail Rise Estate Limited Private Plan Change to the Queenstown Lakes District Plan.

Although this report is intended as a stand-alone document, a more in-depth understanding of the plan change, the process undertaken, and related issues may be gained by reading the Section 32 report and associated documentation prepared for Plan Change 37 and publicly notified in April 2010. This information is available on the Council website: [www.qldc.govt.nz](http://www.qldc.govt.nz).

The relevant provisions in the Queenstown Lakes District Council's District Plan which are affected by the plan change are:

Plan Section	Provision
Part 12	Special Zones - Insertion of amended provisions to the existing Quail Rise Special Zone including an updated Quail Rise Structure Plan
Part 15	Subdivision - 15.2.6.3 and 15.2.10 - Amended provisions relating to Quail Rise Special Zone

A total of 16 original submissions and 71 further submissions from 10 further submitters were received on this plan change. The Hearing Commissioners heard written and verbal evidence from Quail Rise Estate Limited (QREL) and one submitter at the hearing. Five submitters tabled letters in support of their submissions. Based on consideration of the plan change, all submissions and evidence received, the Hearing Commissioners recommend that the plan change is confirmed, subject to several amendments as outlined below.

## 1.1 POINTS OF CLARIFICATION

This report generally assesses submissions in groups based on issues raised where the content of the submissions is the same or similar.

## 2.0 BACKGROUND

The following gives a brief background to the QREL Private Plan Change application from its original proposal as lodged with Council in July 2009 through to the revised plan change that was heard before the Commissioners in September 2010.

Quail Rise Estate Limited initially lodged the private plan change in July 2009, which sought to rezone approximately 19.9 hectares of land, located just south of the existing Quail Rise Special Zone, to the Low Density Residential zone. The land subject to the proposed development was predominantly zoned Rural General but also included the Quail Rise Open Space G Activity Area and Quail Rise Rural Residential Activity Area. The development was to provide for an additional 115 residential allotments with a minimum allotment size of 1000m<sup>2</sup>, a small corner shopping centre and a connection from Ferry Hill Drive through to the proposed new roundabout on Frankton Road Ladies Mile Highway.

As a result of an internal Council review of the proposal, and subsequent discussions with the Applicant, the plan change was amended to a smaller land area of 11.8 hectares providing for a total of 57 residential units, an additional 43 over and above those developments already provided for within the zone. The application was lodged and subsequently notified on this basis on 5 May 2010.

After close of further submissions, the Applicant amended the application several times in order to rectify a number of existing issues associated with the existing Quail Rise Special zone specifically regarding the administration of zone provisions that identify total development rights for specific allotments in the zone as opposed to the imposition of a minimum allotment size throughout the zone.

After several changes to the application and as a result of ongoing discussions with the Applicant a revised application was submitted, post notification, introducing four new Activity Areas into the Quail Rise zone that would be specific to the plan change area only. This amended proposal sought to allocate a number of allotments to an Activity Area as opposed to an existing parent lot. While this would provide more clarity for administration purposes it would not result in any changes to the number of allotments originally proposed at notification (234). The Council's Planner Section 42 A hearings report and associated assessment was undertaken on the basis of this proposal.

Prior to the hearing, however, Council was advised that B and N Thompson, and Thompsons Senior sought to withdraw their land from the plan change area. This included all the Rural General zoned land located in the south of the plan change site. The letter requested that Council:

1. Withdraw Brian and Nelda Thompson and the Thompsons Senior land from proposed Plan Change 37;
2. Withdraw submissions made by Brian and Nelda Thompson and Thompsons Senior in respect to the proposed Plan Change;
3. Confirm that Brian and Nelda Thompson and Thompsons Senior do not object to the plan change proceeding so far as land owned by Quail Rise Estate Limited is concerned, neighbouring their respective properties.

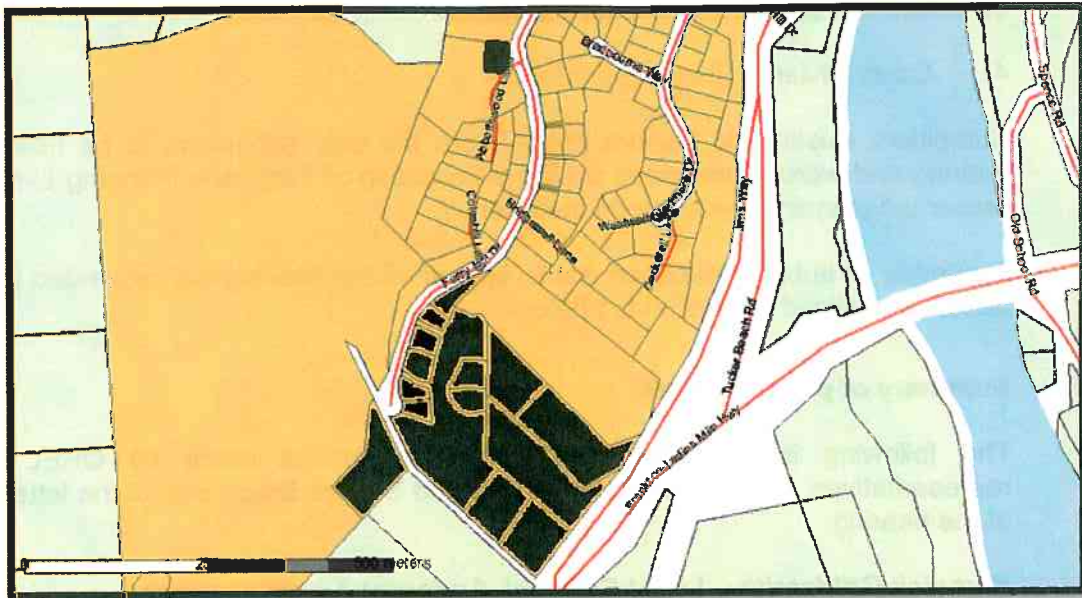
As a result of the above, and in response to several issues raised in the Section 42A report, the Applicant revised its application again during the week prior to the plan change hearing. The final plan change proposal is outlined below.

### **3. PLAN CHANGE PROPOSAL**

The final changes to the application sought that the proposal be limited to rezoning land within the existing Quail Rise Zone to provide for an additional 23 residential dwellings, four new Activity Areas and a total of 214 development rights within the Quail Rise Zone. This development right would exclude Lots 1 and 3 DP 300264 (as per the existing provisions) as well as proposed Residential 2 (D) Activity Area.

Further to the above, QREL also proposed to rezone the lower portion of Lot 50 DP 370064 (referred to in this report as Lot 50), which is located just north of the main plan change site, from Quail Rise Open Space G Activity Area to Quail Rise Residential Activity Area in order to allow for one additional residential dwellings (it is noted that the original proposal originally sought two additional dwellings within Lot 50).

The plan change area is shown in black in figure 1 below:



**Figure 1**

In respect to servicing, the application proposed the following preferred options:

1. Wastewater will be disposed via direct connection to Project Shotover (Council's oxidation ponds);
2. Potable water will be sourced through connection to the proposed Plan Change 19 reticulation;
3. Stormwater will be piped through to the Shotover River for disposal;
4. Access will be provided for via existing accessways and a southern extension to Ferry Hill Drive.

The plan change proposed to amend the Quail Rise Special Zone provisions in order to provide for the above. It also proposed several minor amendments to the Quail Rise Special Zone provisions in order to rectify several discrepancies in the existing rules. Refer to Appendix A for detail.

#### **4.0 SUBMISSIONS**

The plan change was notified for public submission on 5 May 2010. Sixteen submissions were received and 71 further submissions from 10 further submitters.

#### **5.0 HEARING**

A hearing was held on 29 September 2010 at the Crown Plaza Hotel, Queenstown. The Hearing Commissioners were Commissioner Leigh Overton (Chairman) and Commissioner Cath Gilmour.

At the hearing the Commissioners were assisted by Karen Page, Senior Policy Analyst for Queenstown Lakes District Council. Ms Page had prepared a report pursuant to Section 42A of the Act. This report had been pre-circulated. A number of witnesses presented evidence on behalf of the Applicant. This included the following parties:

- 1) Warwick Goldsmith – Legal submission
- 2) James Hadley – Engineering evidence

- 3) Michael Steven – Landscape evidence
- 4) Carey Vivian – Planning Evidence

Submitters Austin and Sandra Bragg were the only submitters to be heard at the hearing and were represented by Chris Ferguson of Ferguson Planning Limited who presented planning evidence on their behalf.

A number of submitters chose not to appear at the hearing but requested letters be tabled as outlined in Section 5.1 below.

## **5.1 Summary of presentations**

The following is a summary of the presentations made by QREL and its representatives, the submission of Austin and Sandra Bragg and of the letters tabled at the hearing.

### ***Warwick Goldsmith – Legal Counsel, Anderson Lloyd Lawyers***

Warwick Goldsmith opened for the Applicant. He briefly traversed the background to the plan change and variations made to the application after the plan change was lodged in July 2009. He then outlined the proposal, and the rationale behind it, as amended just prior to the hearing. After addressing some of the key issues outlined in the Section 42A report he concluded by stating that Plan Change 37 represents the most appropriate zoning for this area and will achieve the sustainable purpose of the Act.

### ***James Hadley – Engineering, Hadley Consultants Limited***

James Hadley presented a written statement of evidence addressing the hazard issues within the plan change site and its ability to provide for development on Lot 50 and Lot 8. James Hadley was the only expert witness to give evidence in respect to this matter at the hearing. In respect to Lot 8 he considered that further investigation would be required prior to development due to the presence of uncertified fill, and due to the risk of debris flow from above the site. He considered that these hazards, however, were not significant and could be addressed through the proposed plan provisions which would require further investigation prior to any development on this lot. In respect to Lot 50, he considered that development could be supported on this site based on the assessment that has already been undertaken for this site through a previous consent application that concluded that as long as appropriate mitigation was put in place, any adverse effects would be minor.

### ***Michael Steven – Landscape Architect, Vivian Espie Limited***

Dr Michael Steven presented a written statement of evidence addressing the landscape impacts of the development. In his view the plan change site should be assessed as an Other Rural Landscape (ORL) as opposed to the Visual Amenity Landscape (VAL) as identified in the District Plan. Dr Steven disagreed with much of the landscape assessment undertaken by Lakes Environmental Landscape Architect Antony Rewcastle, specifically concluding that the development would not weaken the edge of the existing town boundary, nor would it affect visual access to Ferry Hill or compromise this outstanding natural feature in any way. Dr Steven considered that any adverse effects on landscape values would be minor.

### **Carey Vivian – Planner, Vivian Espie Limited**

Mr Carey Vivian presented planning evidence in support of the plan change. He addressed a number of issues outlined in the Council Planner's report specifically around the rationale behind the proposed plan provisions, efficiency of land use, provision of pedestrian and cycleway networks, and the adequacies of the Section 32 analysis. Mr Vivian also provided an updated version of the proposed plan provisions discussing these in some detail.

### **Chris Ferguson, Planner- Ferguson Planning Limited**

Mr Chris Ferguson of Ferguson Planning Limited read a written statement of evidence on behalf of submitters Austin and Sandra Bragg. Mr Ferguson outlined the relief sought by this submitter which included extending the plan change area to provide for a total of 17 development rights in respect of Lots 1 DP 324970 and Lot 2 DP 300296. Mr Ferguson considered that there was scope to provide for this relief and that the subject site had the ability to support 17 dwellings without compromising the existing open space zoning, the integrity of the existing Quail Rise Structure Plan or any landscape values. He considered that granting this relief would be an effective and efficient way of achieving the purpose of the Act.

### **Tabled Letters**

#### **Queenstown Airport Corporation (QAC)**

The letter tabled by Lane Neave lawyers on behalf of QAC advised that QAC have reached an agreement with QREL that will enable them to withdraw their submission once that agreement has been finalised. QAC also supports the acoustic and ventilation rules as proposed by QREL.

#### **Lakes Consulting Limited**

Lakes Consulting Limited tabled a letter on behalf of Jaron McMillan, Reavers NZ Limited, Procure Concrete Limited and Steve Rout Contracting Limited. It confirmed that the submitters continued to support the issues raised in their original submission, and advised that they also supported the approach being taken by QREL to provide non-objection covenants on land within the plan change area. The letter advised that dialogue was still ongoing between the submitters and QREL in respect to this matter.

#### **Shotover Park Limited**

Shotover Park Limited advised that they do not support commercial activity within the plan change but do support a requirement that vehicular access be provided via the proposed roundabout on State Highway 6.

#### **Woodfields Family Trust**

The letter by Gallaway Cook Allan Lawyers on behalf of the Woodfields Family Trust advised that they wished to withdraw their submission in opposition to the plan change. The letter confirmed that the submitters supported the plan change as notified.

#### **Otago Regional Council.**

ORC tabled a letter advising that they did not wish to be heard at the hearing but support their submission that development should be avoided when the works required to mitigate a hazard are significant and the benefits of any such development are limited.

## 6.0 HEARING – RECOMMENDATIONS ON SUBMISSIONS

In making recommendations the Hearing Commissioners have had regard to the matters raised by submitters and further submitters in their submissions and at the Council hearing; and to the provisions of the Resource Management Act 1991 (the Act), in particular the Applicant's section 32 report and subsequent amendments to the application.

The following sections of this report provide a summary of each issue raised in the submissions and a recommendation in response to each of these issues. In respect to the plan change, the Act only requires a summary of the issues raised in submission. It is noted that under the October 2009 amendments to the Act, the requirement to address each submission point was deleted. The Act specifically states:

*"To avoid doubt, the local authority is not required to give a decision that addresses each submission individually"*

The Act now requires that the submissions are addressed by grouping them according to the provisions of the proposed policy statement or plan to which they relate or the matters to which they relate.

### 6.1 Reverse Sensitivity Effects

The majority of the submitters to the plan change considered that the proposed development will result in reverse sensitivity effects. Several effects were identified by submitters. These included adverse effects between the residential activity in the proposed zone and:

- i) Queenstown airport (and associated activities);
- ii) Industrial land within Glenda Drive;
- iii) State Highway 6; and
- iv) Adjoining consented and rural activities.

Each potential effect is considered below:

#### 6.1.1 Queenstown Airport

##### ***Explanation***

The submission by Queenstown Airport Company (QAC) opposes the plan change on the basis that it will generate reverse sensitivity effects between the airport (and associated activity) and future residents within the plan change site.

##### ***Consideration***

A letter from Lane Neave Lawyers was tabled at the beginning of the hearing on behalf of QAC. The letter advised that QAC would not be appearing at the hearing and that QAC and Quail Rise Estate Limited (QREL) were in the process of finalising an agreement that would enable QAC to withdraw its submission (We note that to date we have not received advice of this and therefore consideration must be given to the issues raised in their submission). The letter also advised that QAC supports the ventilation and insulation provisions proposed by QREL.

The plan change site is located outside both the existing and proposed (as per QAC Private Plan Change 35) airport airnoise boundaries. The original submission by



QAC, however, considered that the site would be adversely affected by airport activity due to its close proximity to the airport particularly in respect to the cross wind flight tracks for general aviation. It is noted that since notification, the development rights within the plan change area have been reduced by 20 residential units as a result of the reduced site area. This amendment has also relocated the plan change site further north of the general aviation cross wind runway which appeared to be the main focus of concern in the QAC submission.

It is understood that the expert noise evidence presented for QAC for Plan Change 35 (Queenstown Airport Corporation Private Plan Change) concluded that any adverse noise effects generated by the airport outside the Outer Control Boundary would be acceptable. Further to this, we have been advised that NZS6805:1992 (New Zealand Standard for Airport Noise Management and Land Use Planning) specifically defines the 55 dBA airnoise boundary as the outer limit for the management of aircraft noise. As a result of the above, we can conclude that the noise levels that the plan change area will be exposed to, as a result of its locality to the airport, will fall within acceptable limits.

We recognise that reverse sensitivity effects, however can occur even when noise levels are not being exceeded. To provide protection for the long term operation of strategic assets, such as airports, it can be appropriate to plan to avoid development that may affect its future operation rather than try to mitigate the effects after development has occurred. However, to avoid undue restrictions on landowners it is important that the operators of these assets can justify the need for such limitations and show that they are being applied consistently. QAC sought through their original submission that the plan change be rejected on the basis of reverse sensitivity effects, but we are not satisfied that they have justified their position in this respect.

In order, however, to address the concerns raised in the QAC submission, QREL has since proposed to provide for noise mitigation through requiring all residential dwellings to have mechanical ventilation and acoustic insulation. QREL propose to impose this through a zone standard in the Quail Rise Zone specific to the plan change area only. We note that this is a higher standard of mitigation than is required within the 55 dBA airnoise boundary.

Further to the above, however, and as outlined in more detail below, in addition to the airport, the plan change site abuts the State Highway and is also located adjacent to a number of industrial activities in Glenda Drive, all of which have the potential to be high noise generating activities. Having considered this, and given QREL has agreed to impose noise mitigation within the zone, we consider it prudent to accept these provisions in order to mitigate any potential reverse sensitivity effects. In respect to R 2 (A) Activity Area, however, we consider that this mitigation is too onerous given the site's distance from these noise generating activities.

We also note that QREL has agreed to impose no complaint covenants over their land in order to reduce the risk for potential reverse sensitivity effects in respect to all noise generating activities surrounding the plan change area. It is noted that while such covenants do not avoid, remedy or mitigate the primary effects (ie: nothing actually becomes quieter simply because a covenant exists), they might avoid or mitigate the secondary effect of the ensuing complaints upon the emitting activity. They are also useful in ensuring that prospective owners of the receiving sites are aware of the issue and are able to decide whether or not to buy on those terms.

## **Recommendation**

Reject the submission point that the development will generate reverse sensitivity effects between the airport activity and the plan change site.

## **Reason**

We are satisfied that the mitigation proposed by QREL will address any potential reverse sensitivity effects.

### **6.1.2 State Highway 6**

## **Explanation**

A neutral submission was lodged on the plan change by the New Zealand Transport Authority (NZTA). This submission seeks a number of amendments to the plan change which includes the following:

- a) A 15m setback requirement from State Highway 6 be inserted into Rule 12.15.5.2;
- b) A new rule be included to read as follows:

*New residential buildings located within 80m of the seal edge of the State Highway shall be designed and constructed to meet noise performance standards for noise from traffic on State Highway 6 that will not exceed 35 dBA Leq (24hr) in bedrooms and 40 dBA Leq (24hr) for other habitable rooms in accordance with the satisfactory sound levels recommended by Australian and New Zealand Standard AS/NZ2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors. This shall take account of any increases in noise from projected traffic growth during a period of not less than 10 years from the commencement of construction of the development.*

NZTA seek that the above provisions be included in the plan change in order to mitigate any potential adverse reverse sensitivity effects between the State Highway and future residents within the plan change site. The submission outlines one of NZTA's key planning aims as being to reduce the potential for conflict between state highways and nearby land uses in order to:

- (a) *Ensure the state highways function in an optimal manner;*
- (b) *Ensure new developments near state highways protect future occupants from potential adverse effects such as traffic noise and vibration; and*
- (c) *Improve the amenity values of sensitive areas near state highways.*

## **Consideration**

NZTA did not present evidence at the hearing as they considered that their concerns were adequately addressed through their original submission.

We understand that the NZTA's planning policy promotes an 80m setback of any residential development from a State Highway. Due to the raised topography of the plan change site, however, the submission accepts the 15m setback proposed by QREL as long as any proposed development within 80m of the State Highway is acoustically insulated. The submission states that "*such an approach would have the effect of future proofing the development, as traffic volumes and therefore noise generation are expected to increase along the adjacent stretch of the state highway*".

Due to implementation concerns with the above rule, QREL advised that they seek to

address this issue through the mitigation proposed in the new zone provisions requiring acoustic insulation and mechanical ventilation on all new sites within the plan change, except R2 (A) Activity Area. As outlined above in Section 6.1.1, we are satisfied that these provisions will address any potential reverse sensitivity effects in this area including potential effects generated by the State Highway.

### ***Recommendation***

Reject the submission point that the development will create reverse sensitivity effects between the State Highway and the plan change site.

### ***Reason***

As above, we consider that the proposed mitigation will address any potential reverse sensitivity issues.

### ***6.1.3 Industrial Zone activities within Glenda Drive***

#### ***Explanation***

A letter from Brett Giddens of Lakes Consulting Limited was tabled at the hearing on behalf of Reavers NZ Limited (who own land occupied by Placemakers, Alpine Self Storage, Works Infrastructure, New Zealand Post, Vehicle Testing New Zealand Limited, Shotover Engineering, Hirequip, Queenstown Glass, and B and T Automotive), Procure Concrete Limited and Steve Rout Contracting Limited. The letter supported the original submission lodged on behalf of these parties that opposed the plan change due to potential reverse sensitivity effects. We were also advised that these submitters are currently in the process of consulting with QREL to address these concerns through imposing no complaint covenants on all future land titles within the plan change site.

#### ***Consideration***

We recognised that reverse sensitivity effects could arise at the interface of these two zones due to the contrasting land use activities permitted in these areas. However, we consider there are sufficient mitigating factors that will address any potential issue.

Residential development within the plan change site will be set back more than 85m from the Industrial Zone as a result of the 15m building line restriction and the State Highway. This separation, along with the proposed acoustic insulation and mechanical ventilation, will ensure that internal amenity values in the Quail Rise Zone are protected from noise generating activity in the Industrial Zone. It is acknowledged that these measures will not mitigate external noise levels. The plan change area, however, is located in an environment that has a higher ambient noise level than the rest of the Quail Rise Special Zone as a result of its location opposite the Industrial Zone, abutting the State Highway and proximity to the Queenstown Airport. Future commercial and industrial development in the Plan Change 19 (Frankton Flats B Zone) site will also contribute to potentially higher ambient noise levels in this area. As a result, given environmental conditions in the area, coupled with the proposed mitigation and the small size of the plan change, it is considered that this extension is unlikely to generate reverse sensitivity effects between the industrial and residential activities. Furthermore, QREL also proposes to impose no complaint covenants on all new titles. While this does not mitigate the effects, it does enable future land owners to make an informed choice as to the environment they are purchasing in and provides a legal mechanism for the relevant industrial activity to prevent action being

taken against it.

It is also noted that there is no Council record of any complaints from existing development in the Quail Rise or Rural General zones in respect to noise emissions generated from the adjacent industrial zone.

The submission by Procure Concrete Limited also raises compliance issues with their consent to operate on this site. We understand that Condition 7 of RM60754 requires noise monitoring to take place at the boundary of the Quail Rise Zone. It specifically states:

*"The consent holder shall ensure that all activities conducted on the site shall be carried out in accordance with the Noise Management Plan and comply with the following noise limits when measured at the boundary of the Quail Rise Residential Zone situated directly across State Highway 6:*

*Daytime 0800-2000 hours 50dBA L*

*Night time 2000-0800 hours 40 dBA L and 70dBA L"*

In respect to this condition, there is no evidence to suggest that its compliance would be more difficult as a result of the plan change. The Quail Rise zone will not be located any closer to this adjacent activity and therefore will not change the compliance point for this consent.

The submission by Firth Industries also seeks that a covenant be registered on the title for lots created to prevent future complaints of landowners relating to existing industrial activities. We consider, however, that the proposed acoustic provisions will adequately mitigate any potential effect but also understand that a covenant of this nature has been entered into.

### ***Recommendation***

Reject the submission point that the development will create reverse sensitivity effects between the Industrial zone and the plan change site.

### ***Reason***

We are satisfied that the mitigating factors existing and proposed will address any potential reverse sensitivity issues.

### ***6.1.4 Adjoining consented and rural activity***

#### ***Explanation***

The submission from Mr Jaron McMillan, being the owner of the adjoining rural site at 179 Frankton - Ladies Mile Highway, opposes the plan change on the basis that it will generate reverse sensitivity effects between his consented activity and the plan change site.

#### ***Consideration***

In respect to this submission, we note that the amendments made to the plan change have relocated the plan change boundary to approximately 90m from Mr McMillan's boundary. We understand, however, that the submitter is still concerned about reverse sensitivity effects between his consented activity to store machinery,

equipment and vehicles associated within his drilling business on site and the residential activity within the plan change site.

We are of the view that the potential for reverse sensitivity effects between these two activities is small as a result of the separation between the activities and due to the relatively passive nature of the consented activity. The movement of heavy vehicles from the consented activity may generate more vehicle noise than anticipated in a residential area but this would be lesser in scale than that which could occur on this site from a rural activity as of right. Furthermore, the higher ambient noise levels in this area, as discussed above in Section 6.1.3, will further avoid any potential effects.

### ***Recommendation***

Reject the submission point that the development will result in reverse sensitivity effects between Mr McMillan property and the plan change site.

### ***Reason***

We do not consider that there will be any reverse sensitivity effects between these land uses.

## **6.2 Plan Change Area**

### ***Explanation***

A number of submitters sought an expansion to the plan change area, specifically seeking that the proposal be expanded to include the Rural General zoned land south of the plan change site. Relief was also sought to expand the plan change area to include S and A Bragg's property immediately adjoining the northern boundary of the plan change.

### ***Consideration***

We note that, with the exception of S and A Bragg, we did not hear from any of those submitters at the hearing who sought a southern extension to the plan change area.

As outlined in the Council Planner's Section 42A hearings report, this Rural General zoned land to the south of the site was initially included in the plan change application lodged with Council in July 2009. We understand that as a result of discussions with Council, this application was amended when Council sought that the Applicant consider including the entire strip of land on the northern side of the State Highway through to Hansens Road in the plan change. In response the Applicant instead chose to reduce the size of the proposal from 19.9 to 11.8 hectares, proposing only a relatively small extension to the existing Quail Rise zone with the transmission lines forming the southern boundary. Several days before the hearing, however, the application was amended again to a smaller proposal that only sought to amend the existing Activity Areas within the Quail Rise Zone itself. This change came about as a result of the Thompsons seeking that their Rural General land adjoining the Quail Rise zone to the south be excluded from the plan change.

We recognise that the most logical approach to planning in this general area would be to deal with the entire strip of land between State Highway 6 and the toe of Ferry Hill in a comprehensive manner. We understand that such an approach was discussed in the decision on Plan Change 19 - Frankton Flats, which specifically stated that

the rezoning of this land should be undertaken in the context of the entire strip of land lying to the north of the State Highway, and a structure plan for the area should be prepared and promoted as part of a separate plan change. We have been advised that most of the land owners on this northern side of State Highway 6 submitted on Plan Change 19 seeking that their land be included in the plan change area. The submissions were rejected as they were deemed to be outside the scope of Plan Change 19.

We are of the opinion, however, that including all this land north of the State Highway, as sought by the submitters, would also fall outside the scope of the current plan change given that it would result in extending the site by more than three times its current size and would require considerably more detailed analysis in respect to issues such as potential land use (proposed zonings), transportation networks, landscape effects and urban design outcomes. The proposed plan change, however, does not preclude the other land owners from lodging a separate private plan change application to consider any rezoning options in respect to this remaining area. Further to this, we do not consider that QREL should be expected to incur the cost of a plan change proposal three times the size of the current development, especially as any such proposal would be more complex than the current plan change due to the likely additional zoning options.

The structure plan approach outlined above would have been the preferred option in terms of dealing with this land. However, the proposed plan change needs to be considered on its own merits and, as noted, QREL's preference was to reduce the scale of their application rather than to adopt a more comprehensive approach. Further, it is considered, that as Plan Change 37 is essentially limited to a residential extension within the Quail Rise zone, this area does have the potential to be considered in isolation to the rest of the strip.

Mr Ferguson presented evidence on behalf of A and S Bragg in respect to their submission to obtain a further four residential development rights for their property identified as Lot 1 DP 324970 and Lot 2 DP 300296, allowing for a total of 17. The submitter considers that this would provide for a more efficient use of this site as the additional lots would enable a density of approximately 2000m<sup>2</sup> (as opposed to the existing 3000m<sup>2</sup>), which the submitter considers is more akin to development adjoining its northern boundary.

This submission originally sought a further nine residential development rights for this site. However, the Council Planner's report determined that the Braggs' site actually had potential for a further five developments rights over and above the nine already allocated. We understand that this is due to existing development rights allocated to the parent lot of Lot 2 DP 300296 that are yet to be given effect to. On this basis the submitter has an existing development potential of 14 residential units as opposed to nine. As stated however, these additional five development rights are subject to Lot 2 DP 300296 only, rather than Lot 1 DP 324970, and due to site constraints the development potential may be less than this.

Mr Ferguson considered that the relief sought by this submitter (being an additional four development rights for Lot 1 DP 324970) was "*on the plan change*" and not outside the scope as suggested by QREL in their further submission. We have considered this issue and agree with Mr Ferguson that there is scope to consider the submission due to the site's locality immediately abutting the plan change area, its limited size and its consistency in respect to character and amenity with the outcome sought for the application site. Those neighbours adjoining the site also had the ability to consider and oppose or support this submission through the further submission

process.

The evidence presented by Mr Ferguson included a concept plan of the submitters' property illustrating how a 17 lot development could be provided for on this site. The plan included allotments ranging from 810m<sup>2</sup> to 2090m<sup>2</sup> net site areas, open space areas as shown on the Quail Rise Structure Plan and provided for an accessway off Ferry Hill Drive. Mr Ferguson considered that relief sought in the Braggs' submission would not compromise landscape or amenity values, would promote the objectives and policies of the District Plan and subsequently meet Part II of the Resource Management Act 1991.

Having considered the information provided to us, we are not satisfied that a further four residential units could be provided for in Lot 1 DP 324970 without compromising landscape qualities. Our primary concern includes the proposal to locate four or potentially five residential units on the hillock (or small hill) that dissects the site through its middle. We are of the opinion that development to this intensity would compromise this landform. Due to the intensity proposed, there would not be many alternative options to providing for 17 units on this site other than the design that was presented to us. While we appreciate that a landscape assessment could be undertaken prior to any development approval, we are not satisfied that the site has the ability to absorb 17 residential units without generating adverse landscape effects. In our view, this site has particularly obvious landforms worth protecting such as the hillock, and gully areas. While the gully areas are protected under the Quail Rise Structure Plan, the hillock is not, and the submission lacked any landscape analysis in respect to the potential effects on this landform. We note that consideration was given to approving a further two or three development rights on this site but we determined that, again, there was insufficient evidence to demonstrate that the site has the ability to absorb this level of development without generating adverse landscape effects.

### ***Recommendation***

Reject the submission by A and S Bragg to increase their development potential for Lot 1 DP 324970 by four development rights.

### ***Reason***

We do not consider there was sufficient information provided to determine that additional development rights on this site would continue to protect landscape values.

## **6.3 Traffic effects / Roading/ Access**

A number of submitters consider that the proposed development will create adverse traffic effects. The submission points can be grouped into the following issues:

- i) Future roading connection;
- ii) Intersection of Tuckers Beach Road and State Highway 6 (SH6);
- iii) Traffic network analysis; and
- iv) Cycle and pedestrian walkways.

Each issue is considered below.

### **6.3.1 Future Rooding Connection**

#### ***Explanation***

The ability to secure a future rooding connection from the Quail Rise Zone through to the land to the south of the zone was raised by a number of submitters on the plan change. The Council Planner's Section 42A report also discussed the importance of providing for this connection, stating that it will potentially be an important through route from the Quail Rise zone to Frankton Flats that would reduce pressure on the existing Tucker Beach Road and SH6 intersection, and provide better integration and connection with the subject site and the land to the south.

#### ***Consideration***

At the hearing we were advised that for access to the southernmost part of the plan change site, the Applicant proposes to utilise the existing unformed paper road that currently connects Tuckers Beach Road to the cul de sac at the end of Ferry Hill Drive. This road abuts the Quail Rise zone along this southern boundary but is separated from the zone by a shelter belt of pine trees that run the length of this boundary. A ROW that is currently formed as an unsealed driveway is located within the zone boundary adjacent to these pine trees. The Applicant advised that they propose to remove these trees in order to provide for this access. As this road is located at the interface of the Quail Rise and Rural General Zones, it will act as a buffer between these zones and will also secure a possible future rooding link at this boundary to the land to the south.

Further to the above, the existing Quail Rise structure plan also shows an indicative future link road that could provide an alternative connection from Ferry Hill Drive through to the south. As the preferred route for this link road is yet to be determined we consider that it prudent to also continue to safeguard the link as shown on the existing Structure Plan. We therefore recommend that two future rooding links are shown on the Quail Rise Structure Plan, which would include the existing link and a new link road located down through the existing paper road (see Appendix A and the Quail Rise Structure Plan for detail). Providing for alternative connection points will enable some flexibility when determining a future rooding design to the south of the site at a later date.

Several submitters also considered that the location of this link road south of the site should be determined and provided for through this plan change process. As long as a link to Ferry Hill Drive and the land to the south is assured, we do not consider it necessary to determine the location of this road through this process.

The submission by K and S Lanuel opposes a road link between the Quail Rise Special Zone and the State Highway. In respect to this, it is noted that a future link is already provided for on the existing Quail Rise Structure Plan and this plan change will simply confirm this existing link, albeit in two different locations.

#### ***Recommendation***

Accept those submissions requesting a rooding connection be safeguarded at the boundary of the Quail Rise Zone.

Reject the submissions that the Applicant should provide for a link road or determine the location of any possible link road from the Quail Rise Zone though to Frankton Flats.



### ***Reason***

We recognise the importance of securing a future roading connection at the boundary of the Quail Rise Zone, however, we do not consider that QREL should be expected to determine the location of this road south of the plan change site nor is it feasible to do so given that potential land use options in this area are yet to be determined.

### **6.3.2 Traffic Analysis and Intersection of Tuckers Beach Road and SH 6**

#### ***Explanation***

Access to Quail Rise is currently restricted to one entrance located off Tucker Beach Road, which in turn connects to SH 6. A number of submitters consider that increasing the volume of traffic will compromise the safe and efficient movement of traffic at this intersection. Submissions on the plan change also considered the application lacked a comprehensive traffic network analysis.

#### ***Consideration***

We have relied on advice provided to us from Council's roading engineer that confirms that the existing roading network has the capacity to support the additional vehicle volumes that will be generated by this proposal. We also note that the plan change area, and subsequent traffic volumes, has nearly halved from the scale of development proposed at time of notification, with the number of additional residential dwellings having been reduced from 43 dwellings to 22 proposed dwellings (refer to Section 6.6 below). Due to the above considerations, we are satisfied that Ferry Hill Road has the capacity to accommodate this increase in traffic.

In respect to the Tuckers Beach Road and the State Highway intersection we note that this assessment is in the realm of the New Zealand Transport Authority (NZTA) as the road controlling authority for the State Highway. NZTA did lodge a submission on the plan change but raised issues only around reverse sensitivity effects, provision for cycleways and footpaths and connectivity between the zone and adjoining land use to the south. We understand that verbal discussions between NZTA and Council have confirmed that they consider the existing intersection has the capacity to accommodate the additional vehicle movements generated by this development.

Further to this, based on the capacity of the existing roading network, on advice received from Council's roading engineers, and on the submission of NZTA, we do not consider that a comprehensive traffic analysis is necessary to support this plan change.

#### ***Recommendation***

Reject the submission point that the existing roading network including the Tuckers Beach Road and SH 6 intersection does not have the capacity to accommodate the anticipated increase in vehicle movements.

#### ***Reason***

We are satisfied that the existing roading network can accommodate the traffic effects generated by the proposed plan change.

### **6.3.3 Pedestrian and Cycleway Networks**

#### ***Explanation***

The submission by the New Zealand Transport Authority seeks that provision is made through the plan change for pedestrian and cycleway networks.

#### ***Consideration***

As we have outlined, the plan change has been reduced in size by half from the proposal originally notified and submitted on by NZTA. As a result the plan change is now restricted to a further 22 proposed allotments at this southern end of the Quail Rise Zone. We are of the opinion that due to the scale of the development, and due to the plan change site being held in single ownership (in respect to that area for further development), a future roading design which includes any provision for pedestrian and cycleway access can adequately be considered at time of subdivision approval.

#### ***Recommendation***

Reject the submission by NZTA that provision should be made through the plan change for a pedestrian and cycleway network.

#### ***Reason***

For reasons outlined above, we are satisfied that the existing subdivision provisions in the District Plan will provide Council with sufficient ability to consider these issues at the subdivision stage.

### **6.4 Amenity Values**

#### ***Explanation***

The submissions by Mr Jaron McMillan (Lot 1 DP 308784) and K and S Lanuel oppose the development on the basis that it will compromise amenity and privacy values.

#### ***Consideration***

We have considered the effects of the development on the amenity values of these adjacent landowners. We note that the submission by Woodfields Family Trust was withdrawn prior to the hearing and therefore no consideration has been given to the issues raised in their submission.

In respect to the effects on Mr McMillan we note that due to the reduced plan change area, this adjacent property is now separated from the application site by the Thompson land. While the plan change site will be visible from this submitter's property, the site will continue to be bordered by rural land and consequently, while somewhat altered, will still retain a sense of open space and rural amenity. In our view the amenity of this site will not be compromised as a result of this plan change.

The submission by K and S Lanuel also considers that the development will compromise amenity values. The submission opposes the creation of smaller

sections in the Quail Rise zone, the increase in traffic volumes and in particular development in any area zoned for open space.

This submitter is located at 10 Abbotswood Lane which is approximately 50m from Lot 50. We consider the amendment to the plan change, to provide for one as opposed to two developments on this lot, has avoided any potential adverse effects on amenity values. Any future development will be located below the existing development line along Ferry Hill Drive and will continue to retain views through to Ferry Hill from this road boundary. The development will not encroach on views or compromise the outlook of any existing dwelling within Abbotswood Lane.

In respect to the open space zoning at the end of Ferry Hill Drive, it is considered that this is suitable for development as the level of amenity it provides to adjoining and surrounding neighbours is limited. The site is fenced, and is therefore not used for recreation purposes, and due to its topography and current boundary planting, it is not overlooked by any adjoining neighbour. In addition to this, it is considered that residential development is a more efficient use of this site given its urban location.

The above submitter also opposes the development on the grounds that it will increase traffic volumes along Ferry Hill Drive. While the development will increase traffic volumes along Ferry Hill Drive, due to the limited size of this extension (and associated increase in vehicle movements), and the capacity of the existing network, it is not anticipated that amenity values would be compromised in this respect.

Lastly, in regard to this submitter's concern about smaller sections, the existing Quail Rise zone does not impose a minimum allotment size. Development within the plan change will also be restricted by allocated development rights as opposed to a minimum allotment size, which is consistent with the current Quail Rise provisions.

### ***Recommendation***

Reject the submission points that amenity values will be compromised.

### ***Reason***

For reasons outlined above, we are satisfied that the development will not compromise amenity values.

## **6.5 Infrastructure**

### ***Explanation***

Submissions raised issues regarding the capacity of the existing infrastructure in respect to water supply, waste water and stormwater disposal.

### ***Consideration***

The last minute changes made to the plan change application prior to the hearing reduced the proposed development by half in respect to the number of allotments sought. We understand that these changes have not compromised the ability to service the site.

QREL have advised that the preferred option in respect to water supply includes connecting to the proposed Plan Change 19 reticulation as this option is likely

to have the lowest capital cost, require the least amount of land, have the lowest maintenance cost for Council and provide the most systematic solution for water supply. In the event that Plan Change 19 does not proceed, the Applicant has the option of extending the existing Quail Rise Reservoir. This will involve improving the existing pump station, providing for additional storage and construction of a new falling main from the reservoir to the development area.

In respect to wastewater QREL has identified a number of possible options to service the site, including onsite treatment or through various different connections to Council's sewer network. The preferred option identified is to discharge directly to Council's municipal treatment.

The stormwater assessment that was provided with the plan change application was a conceptual study that identified a number of options for stormwater management. The recommended approach is to provide an integrated treatment approach to water management, which will include collection, treatment and disposal methods such as swales, impermeable surfaces, kerb and channel, detention and infiltration ponds, fore bay bunds and end of pipe structures. The report finds that this combination of controls would provide a satisfactory means of meeting the criteria for water quality, volume of discharge, erosion and flood control. This assessment found that to achieve this preferred option, the Applicant will have to obtain resource consent from the Otago Regional Council to discharge stormwater to either land or to water via the Shotover River.

We note that the submission by Thompsons Senior raises issues with stormwater disposal but as this submission was withdrawn prior to the hearing, these cannot be considered. As a result, the further submission to this original submission, from Queenstown Airport Corporation, must also be disregarded.

The submission by Jaron McMillan considered that stormwater from the development would adversely affect his adjoining site. We considered, however, that the submitter's stormwater concerns are now addressed by the removal of the Rural General land to the south of the site from the plan change area. Any stormwater affects will be internalised within the existing Quail Rise Zone and will be mitigated accordingly prior to any future development approval.

We were advised that an internal Council engineering review has been undertaken of the servicing options for this site outlined above. This report concludes, in respect to all three issues, that Council has the ability to design, construct, maintain and manage whatever infrastructure is necessary to support the plan change, in the event that it is approved. This will have to be planned through the LTCCP, Activity Management Plan and Council's Annual Plan, which all determine how and when the infrastructure to support this plan change would be constructed. The developer will incur all the cost of infrastructure required to specifically service the development.

### ***Recommendation***

Accept the submission point that the development must result in good resource management outcomes in respect to infrastructure provision and stormwater.

Reject the submission that stormwater will adversely affect Lot 1 DP 308784.

### ***Reason***

The services assessment provided with the plan change application confirmed that the site has the ability to be adequately serviced without generating any adverse

effects. Prior to any future development, the most appropriate method for servicing this site will be determined.

## 6.6 Landscape

### *Explanation*

The submission by Queenstown Lakes District Council opposed the plan change unless it results in good resource management outcomes in respect to landscape protection.

### *Consideration*

We understand that while the plan change site is located in an area classified as a Visual Amenity Landscape (VAL) under the District Plan, due to the changing characteristics of the site and its surrounds, the recent Environment Court decision for Plan Change 19 – Frankton Flats B, has identified this area as “other rural land” (ORL). This assessment was supported in the QREL landscape evidence of Dr Michael Steven who considers that ORL is the only reasonable classification outcome for the Frankton Flats land north of SH 6. We note, however, that the landscape assessment undertaken by Mr Antony Rewcastle of Lakes Environmental assessed the landscape as a VAL.

The landscape assessment of Mr Rewcastle concludes that the southern end of the Quail Rise Zone should be developed to a rural residential intensity to provide a buffer from the Quail Rise Zone to the Rural General land to the south so that the zone would continue to maintain a distinct character and associated identity. This assessment also concludes that the earthworks required to develop the site as proposed would disrupt the openness and naturalness of the site, adversely affecting legibility and recognition of areas and landform features such as the hillocks. We have also considered the landscape evidence of Dr Steven which concludes that any adverse effects on landscape values will be minor and of no great consequence.

We have considered the above and find that we do not support the conclusion of Mr Rewcastle that rural residential development would be a more appropriate use of this land. In our opinion, a higher density of development would be a more efficient use of this area, particularly given the sites location within the proposed urban growth boundaries as identified in QLDC’s Growth Management Strategy. We note, however, that we are not satisfied that the 1000m<sup>2</sup> average allotment size proposed by QREL is an appropriate level of density for this area. We have sought further information in respect to this matter from Council’s reporting planner and have been advised that the average residential allotment size for the Quail Rise Zone is approximately 1400m<sup>2</sup>, as opposed to 1000m<sup>2</sup> as suggested by the Applicant. We understand that this is based on all those sites within the zone under 2600m<sup>2</sup> and does not include any areas of open space. The plan change is a small extension to the Quail Rise Zone and in our view should not support a higher level of density than the rest of the zone. We acknowledge that allotment sizes in the immediate area differ greatly, but overall the average allotment size in the zone is somewhat larger than the 1000m<sup>2</sup> proposed.

Of particular concern is the affect a higher level of density would have on the existing landforms in the plan change site. We support the future retention of the hillocks that are located within R2 (C) Activity Area that are currently protected by Consent Notices. In respect to this we note that Dr Steven acknowledged during the hearing,

that these hillocks are of local interest and that their removal would adversely impact on existing residences in this area. We support this view. In our opinion, they enhance amenity, privacy and the natural character of this area and a higher level of density would place further development pressure on these landforms. While we recognise that development cannot occur without further consent approval, we consider reducing the proposed level of density will go some way towards ensuring these landforms are protected in perpetuity. As a result, in order to ensure the development is in keeping with the general character of the Quail Rise Zone, and to support the ongoing retention of the site's natural landforms, we recommend the maximum development potential in the R2 (C) Activity Area be reduced to 26 development rights, (this will result in an average density just under 1400m<sup>2</sup> and this number has taken into account a 10% reduction for servicing due to QREL's proposal to use the adjoining paper road for access). Retaining the existing character of the zone would also be imposed through the existing Quail Rise Zone provisions, which include building restrictions such as the use of certain materials, colours and specific building design, all of which will also be applicable to the plan change area.

We consider it important to note that in the process of finalising this recommendation we were made aware of a QREL earthworks application, which has been lodged with Lakes Environmental, to remove the hillocks mentioned above. While we appreciate that this application must be considered against the existing Quail Rise Zone provisions, it is our view that these hillocks should be retained in their current form, as we have emphasised. Removing them in the manner sought will adversely impact on existing visual amenity values and the privacy levels of those residential sites immediately adjoining these landforms. The hillocks also enhance the natural character of this environment and would compliment any future residential development. Previous subdivision has seen QREL retained much of the existing landforms in this area, which in our opinion has only added to the zones high quality residential character. It is for these reasons that we do not support any earthworks or development in those areas protected by Consent Notice 7938041.2.

Further to the above, we also recommend that a maximum development potential be imposed for R2 (D) Activity Area in order to ensure that future development on this lot is consistent with the rest of the zone. We note that due to the hazard issues with this site, any subdivision in this lot is a Restricted Discretionary Activity and building development is subject to an approved building platform.

In respect to a buffer area, we agree with the assessment of Dr Steven, in that we do not consider that a buffer is necessary between the Quail Rise Zone and the adjoining Rural General zoned land. QREL have indicated that they will utilise the existing paper road located between these two zones to provide access to the plan change site along this southern boundary. We are of the opinion that this road will form an appropriate interface between the zones without the need for an additional buffer area.

We note, however, that we do support the proposed 15m buffer zone between State Highway 6 and the adjacent residential development as we consider this will provide an appropriate set back from the State Highway and, coupled with the elevated topography of the site, will ensure future development is appropriately screened from the road boundary.

In respect to the earthworks required to develop the site, we consider that there is protection in place to avoid any adverse effects on natural landforms. As outlined above, we consider any future development of the plan change area should protect the existing landform of this southern end of Quail Rise, particularly the two hillocks mentioned above. We support their ongoing protection and this plan change will not

compromise this. Furthermore, any future consent approval for development in this area will be subject to a landscape assessment that will consider the specific effects of any proposal. Subject to this assessment, we are satisfied that this landscape does have the ability to absorb the development to the proposed density, as amended, without compromising landscape qualities.

In respect to Lot 50, we note that QREL have amended the proposal to provide for one, as opposed to two, residential developments on this site. Located in the north eastern corner of the site, the dwelling will front the Ferry Hill Drive and Abbotswood Lane road boundaries. It will not encroach higher up Ferry Hill than existing development in this zone and will continue to provide a view shaft from the Ferry Hill Drive road boundary through to Ferry Hill. Development in this area will enable a landscaped street frontage along this road boundary potentially improving the site's existing amenity. We are satisfied that restricting development on this site to this lower area will safeguard amenity values and will not compromise the landscape characteristic of this environment.

### ***Recommendation***

Accept the submission point that the development must result in good resource management outcomes in respect to landscape qualities.

### ***Reason***

For reasons outlined above, we are satisfied that the development will not compromise the landscape qualities of this area.

## **6.7 Urban Design**

### ***Explanation***

The submission by Queenstown Lakes District Council opposes the plan change unless it results in a good urban design outcome.

### ***Consideration***

An urban design assessment was undertaken of the proposed plan change by Queenstown Lakes District Council Landscape Architect Nick Karlovsky. This assessment was based on the plan change application that included the Rural General land to the south of the plan change, prior to this area being excluded from the proposal.

The urban design assessment identified a number of potential issues with the plan change that we address below.

#### **i) Proposed Allotment Size**

This assessment considered that the proposed density of the development was low considering its location close to the retail centre of Frankton Flats and within the Urban Growth Boundaries proposed through the QLDC Growth Management Strategy. It questioned whether it would be a more efficient use of land to increase the proposed density by reducing the average site from the 1000m<sup>2</sup> proposed.

QREL addressed this issue at the hearing advising that due to the withdrawal of the Thompson land (and subsequent reduction of 20 residential allotments) there was now scope to increase the density of the proposal, without increasing the scale of development from that originally notified. While Quail Rise Estate Limited did not specifically seek this change, they advised that they would be happy to abide the determination of the Commissioners on this issue.

While we accept that there may have been an argument to increase the density of the development under the previous proposal, we do not draw the same conclusion in respect to the proposal presented to us at the hearing. The plan change is now confined to land within the existing Quail Rise Zone and is essentially a small extension to the residential area within this zone. We consider that the urban design outcomes would be more appropriate and in keeping with the character of this area if the intensity of activity is consistent with existing development within the zone. Our recommendation to increase the average allotment size in the plan change site (and therefore reduce the development potential) will result in an efficient use of this area, while also safeguarding the existing residential character of the Quail Rise Zone.

ii) Outline Development Plan

Council's urban design assessment also recommends that an Outline Development Plan stage be imposed through the zone provisions to ensure that the development results in good connectivity to the south of the site, and provides more certainty in respect to the overall subdivision design. We understand that these concerns were raised primarily due to the initial multiple ownership of the plan change site potentially leading to an ad hoc form of development.

As a result of the recent changes to the application, the area within the plan change site (that is subject to further development) is now nearly half the size as that previously proposed as well as being solely in the ownership of QREL. We understand that QREL are intending to develop the area in a manner similar to the rest of the zone. While this includes staging the development, we understand that the subdivision design will be considered comprehensively to ensure a good urban design outcome. The planning evidence presented by Mr Carey Vivian also outlined a number of existing Assessment Matters in the District Plan that any future subdivision application would be considered against. This includes for example consideration of how the development will interconnect with surrounding development and land uses, provision for pedestrian and cycleway access and servicing matters. We have considered these provisions and are satisfied that along with the mitigating factors described above, a good urban design outcome can be achieved for this southern end of the zone.

iii) Visibility from the State Highway

We understand that one of the main philosophies behind the existing Quail Rise zone is that development should not be visible from a public place outside the zone, particularly from the State Highway.

This issue of visibility has essentially been addressed through the proposal to exclude the Thompson land from the plan change. The elevated topography of the site, along with the 15m building line restriction along Jims Way, will ensure all development in this lower portion of the plan change site will be adequately screened from the State Highway.

iv) Connectivity



In respect to connectivity, the urban design assessment concludes that consideration also needs to be given to whether two connection points should be provided through to the south of the plan change area. As outlined above, the preferred approach to considering any potential rezoning of this strip of land north of the State Highway would have been to consider it holistically. This would have resulted in a more efficient and effective resource management process, particularly in respect to achieving good urban design outcomes such as certainty around connectivity between these two areas. However, we are satisfied that providing for two potential connection points (via the future link roads shown on the Quail Rise Structure Plan), will ensure enough flexibility is available to enable a good urban design outcome for any future roading design.

### ***Recommendation***

Accept the submission point that the plan change must result in a good urban design outcome. This includes amending the permitted development rights within the R2 (C) Activity Area and R2 (D) Activity Area to 26 and four respectively, and overall development rights to 213.

### ***Reasons***

Given the scale of the development, the development history of QREL, the existing provisions in the District Plan and the mitigating factors outlined above, we are satisfied that the development will result in a good urban design outcome subject to our recommended changes above.

## **6.8 Affordable Housing**

### ***Explanation***

Council's Plan Change 24 (PC24) proposes to introduce a requirement for an affordable housing contribution for developments of a certain scale. Due to the size of this plan change, an affordable housing contribution would be required under PC24. However, as PC24 is not operative, Council must rely on QREL to agree to this contribution.

### ***Consideration***

We were advised that based on the assumption that the proposed development has a maximum development potential of 22 additional residential units, there are two methods currently used by Council to determine the amount of affordable housing demand attributed to this proposal. This proposal triggers demand for affordable housing as it is for a plan change to increase development capacity in the plan change site. Using the Stakeholder Deed method based on a contribution of 5% of the net developable area, in this instance that calculation would equate to  $5\% \times 22$  residential units = 1 unit. To be consistent with other agreements signed to date, this would suggest the developer would enter into a stakeholder deed with Council committing to transfer one residential section at nil consideration (or the cash equivalent thereof) to the Council.

Using the methodology of Plan Change 24: Affordable and Community Housing, the calculation would be: 22 residential units x 143m<sup>2</sup> per residential unit = 3146m<sup>2</sup> of residential development, which generates demand for affordable housing of 0.3

residential units per 1000m<sup>2</sup> of development. The result would be 1 unit, as either an Affordable Housing unit or land for a Community Housing unit. Only the Community Housing unit requires a contribution of land at nil consideration; the Affordable Housing unit could be perhaps a smaller home, priced to attract the entry-level of the market.

Therefore both methods indicate that the development should deliver one unit of Affordable or Community Housing, albeit in different ways.

Having considered the above, QREL agreed to enter into a Stake Holder's Deed with the Council, providing that when QREL implements PC37, QREL offered to deliver one fully furnished lot to the Queenstown Lake Community Housing Trust (QLCHT) for nil consideration. This deed, however, was conditional on the plan change being approved as sought by QREL. As the recommended changes to the plan change have reduced the level of density within the R2 (C) Activity Area, the conditions of the deed can, therefore, not be met. As a result, changes made to the plan change have rendered this deed invalid. We note that we are disappointed that QREL has chosen to use this agreement as a bargaining tool for development approval. In our opinion it is more important to ensure that the character within the plan change area is consistent with the rest of the Quail Rise Zone, which we consider to be a high quality residential subdivision. Reducing the level of density within the plan change site is deemed to be necessary to ensure this character is retained.

### ***Recommendation***

Accept the submission by QLDC that an affordable housing contribution as outlined above should be made by QREL. As stated above, however, PC24 is still under appeal and, therefore, this contribution can only be obtained on a voluntary basis.

### ***Reasons***

QREL agreed to enter into a deed to deliver on a fully furnished lot to the QLCHT conditional to the plan change being granted as sought by QREL. As this is a voluntary Stakeholders Deed and due to the conditions sought by QREL, this deed, as agreed to by QREL, is rendered invalid.

## **6.9 Hazards**

### ***Explanation***

The submission by Otago Regional Council (ORC) questioned the suitability of the site for development due to its susceptibility to hazards.

### ***Consideration***

The submission by ORC highlighted the issue of slope instability and debris flow potentially affecting the plan change site, particularly Lots 8 and 50. This issue was discussed at some length during the hearing with evidence presented in support of the plan change by engineer James Hadley of Hadley Consultants Limited. We note that ORC chose not to present evidence at the hearing.

In respect to Lot 8, Mr Hadley advised that this area includes a volume of uncertified fill which cannot be developed without further investigation and remediation. The site is also subject to debris flow from an extreme situation involving catastrophic failure of the water race above the site. Mr Hadley considered, however, that the presence of these hazards should not preclude the site from development because appropriate

mitigation in the form of site specific geotechnical investigation (resulting in the removal of any uncertified fill) and bunding above the site, would adequately mitigate against any such hazards. He considered that mitigation of this nature was common place and regarded as standard engineering measures commonly used to address risks such as those identified.

The predominant hazard to development on Lot 50 is represented by debris flow arising from shallow landslips in the land above the site. The Council Planner's report advised that previous resource consent (RM090658) to establish two residential dwellings, subsequently reduced to one, had already been sought for this site. The primary issues identified with the development were slope stability, landscape and amenity effects and effects on the integrity of the Quail Rise Open Space G Activity Area. The application was declined primarily due to the effects on the integrity of the zone, although it also raised landscape and amenity issues. Further to this, we were advised that in relation to the hazard issues the decision states:

*"Overall we accept that the engineering solution proposed would probably protect the proposed house and would be unlikely to create problems for adjoining properties except at times of very exceptional storm events which there is an existing and unpredictable hazard anyway. Still, our perception is that it is better to avoid building in areas where such substantial protection works are necessary".*

The geological assessment carried out by Hadley Consultants Limited determined that development could be provided for on this site as long as appropriate measures were carried out to mitigate the potential effects. This included:

1. Construction of earth bunds to deflect and control debris flows;
2. Construction of earth bunds to deflect stormwater runoff flows;
3. Maintenance of existing water race flow paths to prevent overflow.

We were advised that the bunds proposed to deflect stormwater and debris flow would require a height of 1.7 to 2 metres and would be required to exceed the length of any proposed building platform. Above the bunds, the historic water race above the sites would be required to be maintained as a secondary flow path for overland flows above the site. This would require ongoing and regular inspections of the water race and, where necessary, the excavation and removal of debris accumulated in the water race. The report states that maintenance and clearing of this water race would be critical for development to occur. A regime would need to be established and registered by consent notice on the title of this lot.

In his evidence Mr Hadley stated that there is no deep-seated landslide risk in respect to this lot (Lot 50) and the identification of debris flow had been a conservative and prudent measure which arose during a reported 1:200 year event. He considered that the level of analysis undertaken in respect to development on this site had proven that the hazard effects could be mitigated. He did not consider that just because a site was subject to a hazard that this should preclude it from any development. In support of this he cited other examples of developments in Queenstown such as the Commonage Development on Queenstown Hill and the existing Quail Rise development itself that had required a similar level of bunding to mitigate similar hazards.

In order to further address these hazard issues above, QREL proposed through the planning evidence presented by Mr Carey Vivian of Vivian Espie Limited, a revised set of provisions which includes restriction on development in these areas. This includes providing for building development as Controlled Activities, within Activity Area R2 A and R2 D, and subdivision on Lot 8 as a Restricted Discretionary Activity. In respect to Lot 8, the Council would have the ability to decline the application

if it was found that any hazard effects could not be mitigated or were not satisfactory. The applicant considered that as specific investigation had already been undertaken in respect to Lot 50, through RM090658, then discretion to decline any future development on this lot was not necessary as the effects had already been proven to be minor.

We considered at some length the above engineering and planning evidence presented to us as well as the opposing submission of ORC that sought that development be declined in these two areas. ORC supported the view in the RM090658 decision outlined above that concluded it is better to avoid building in areas where substantial protection works are necessary. In light of the issues raised in the ORC submission, we note that it would have been useful to have heard evidence in support of this submission at the hearing.

In respect to Lot 8, we are mindful of the fact that as a result of the amended provisions, Council will still be able to decline consent if any future proposed development did not adequately mitigate the hazard effects. We understand that it is likely that uncertified fill may need to be removed from the site prior to any development, but from our experience this is not an onerous requirement such that it should render development on this site unsuitable. Further geotechnical investigation is not an uncommon engineering requirement when disturbed ground is identified prior to development. In respect to the possible bunding required, the advice received from Mr Hadley was that this debris flow was considered a low level risk and bunds were a feasible option to addressing this issue. We understand that these bunds could be designed and integrated as part of the stormwater control systems for this site without any adverse effects on adjacent land, as has happened in earlier development in Quail Rise. Based on this advice, which we note was the only expert advice presented to us at the hearing, we recommend that Lot 8 be rezoned to Quail Rise Activity Area 2 D as proposed, on the basis that Council will still have discretion to decline consent on this site in the event that the development did not adequately mitigate all hazard effects.

As we have discussed, detailed investigation has already been undertaken on Lot 50 and we understand that rezoning this lot to provide for future residential development would require mitigation in the form of bunding to ensure that the site is not subject to debris flow and stormwater runoff. The mitigation would also require ongoing maintenance to avoid any potential future risk to development on this site.

Having considered the above, we recommend that Lot 50 is rezoned to provide for one residential unit on this site but we consider that any future development should also be assessed at the consent stage as a Restricted Discretionary Activity. In our view this will give Council more certainty over the type of development and mitigation proposed for this site. We note that our recommendation to rezone this lower portion of Lot 50, and, therefore, mitigate the hazard, as opposed to avoid it, was finely balanced. We relied on the expert engineering evidence presented to us by Mr Hadley that concluded that the level of mitigation that would be necessary was not of such a scale that it warranted avoiding development altogether on this site. The evidence presented to us concluded the effects could be mitigated through appropriate measures that would be a requirement of any development approval. This may include the mitigation measures identified above such as bunding to deflect stormwater and debris flow, and will require ongoing water race maintenance requirements. We consider that a Restricted Discretionary Activity status for development on this lot will provide the level of discretion necessary to Council to ensure any potential hazard on this site is appropriately mitigated.

Based on the expert advice we received at the hearing, we recommend that Activity Areas R2 A and R2 D be rezoned for development accordingly.

***Recommendation***

Reject the submission by ORC that development should be avoided in Activity Areas R2 A and R2 D.

***Reasons***

Based on the expert evidence presented to us, we consider that development can be provided for on Lots 8 and 50 as long as appropriate mitigation is put in place.