

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 12
– Upper Clutha
Mapping Annotations
and Rezoning Requests

**REPLY OF CRAIG BARR
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

UPPER CLUTHA

10 July 2017

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Appendix 1: Updated Table of submissions recommended to be accepted or accepted in part that require changes to the PDP Plan Maps;

Appendix 2: Updated Table of recommendations to submissions;

Appendix 3: Wendy Banks table with the 'mechanisms included';

Appendix 4: Allenby Farms; resource consent RM130177 Plans and conditions and environmental management plan;

Appendix 5: Modified McLean Scale (2012);

Appendix 6: PDP Subdivision and Rural Residential Chapters with recommended Structure Plans;

Appendix 7: Luggate Park stage 2a approved resource consents;

Appendix 8: Rekos Point covenants; and

Appendix 9: Section 32AA Evaluation.

1. INTRODUCTION

1.1 My name is Craig Alan Barr. I prepared the following section 42A reports for Hearing Stream 12, all dated 17 March 2017:

- (a) Strategic Overview;
- (b) Group 1A Urban Wanaka and Lake Hāwea (**Group 1A**);
- (c) Group 2 Urban Fringe (**Group 2**); and
- (d) Group 3 Rural (**Group 3**).

1.2 I also prepared a supplementary statement of evidence on the dwelling capacity model (**DCM evidence**) dated 2 May 2017, and a summary of evidence dated 17 May 2017. My qualifications and experience are set out in my strategic overview evidence in chief (**EIC**).

1.3 I have reviewed the evidence filed by other expert witnesses on behalf of submitters, and attended all of the hearing from 15 May – 14 June 2017, with the exception of the matters relating to Group 1B Wanaka and Lake Hāwea Commercial, on 30 May 2017, which Ms Jones is addressing. I have also been provided with information from submitters and counsel at the hearing, including reports of what took place on 30 May 2017.

1.4 This reply evidence covers the following matters:

- (a) general and specific submission matters raised by the Panel in their Minute concerning the content of Council Reply' dated 20 June 2017 (**Reply Minute**); and
- (b) evidence and submissions made by, and on behalf of, submitters who appeared at the hearing and consideration of that information to the extent there remains any disagreement, or if my recommendation has changed from my EIC or rebuttal.

1.5 In terms of providing an update on the information and any changes to the overall recommendations, **Appendix 1** provides an updated table of submissions recommended to be accepted or accepted in

part that require changes to the PDP Plan Maps. **Appendix 2** provides an updated table of recommendations to submissions.

1.6 This reply firstly addresses the general matters identified in the Reply Minute, then addresses the matters raised by the Panel and information presented at the hearing in the following topic order:

- (a) Strategic Overview;
- (b) Dwelling Capacity Model and housing capacity in the Upper Clutha;
- (c) Group 1A Wanaka and Lake Hāwea Urban;
- (d) Group 2 Wanaka Urban Fringe; and
- (e) Group 3 Rural.

1.7 The following information is attached as Appendices:

- (a) **Appendix 1:** Updated Table of submissions recommended to be accepted or accepted in part that require changes to the PDP Plan Maps;
- (b) **Appendix 2:** Updated Table of recommendations to submissions;
- (c) **Appendix 3:** Wendy Banks table with the 'mechanisms included';
- (d) **Appendix 4:** Allenby Farms; resource consent RM130177 Plans and conditions and environmental management plan;
- (e) **Appendix 5:** Modified McLean Scale (2012);
- (f) **Appendix 6:** PDP Subdivision and Rural Residential Chapters with recommended Structure Plans;
- (g) **Appendix 7:** Luggate Park stage 2a approved resource consents;
- (h) **Appendix 8:** Rekos Point covenants; and
- (i) **Appendix 9:** Section 32AA Evaluation.

1.8 This Reply should be read in conjunction with the statements of evidence referred to in paragraphs 1.1 and 1.2 above.

1.9 For certain submissions I have changed my recommendation from my position in my EIC and/ or Rebuttal evidence, and now recommend accepting the following submissions:

- (a) Jude Battson (460), Joel Van Riel (462), Darryll Rogers (1138) Melanie Rogers (1141) – increasing the minimum density of the Rural Residential Zone at Hawea Flat from 4000m² to 2000m² allotment sizes at Sam John Place, Lichen Lane and Grandview Road;
- (b) Orchard Road Holdings Ltd (91) – rezoning 24 ha of land at Orchard Road from Rural Zone to Low Density Residential; and
- (c) R. D. and E. M Anderson Family Trust and Nic Blennerhassett (335) and Willowridge Developments Ltd (249) – rezoning the land at the terminus of West Meadows Drive from Large Lot Residential to Low Density Residential.

1.10 A summary of the Council's final recommendations on all Upper Clutha rezoning submissions is attached at **Appendix 1**.

2. MEMORANDUM OF COUNSEL REGARDING MAP ANNOTATIONS

2.1 I refer to the Memorandum of Counsel filed on behalf of QLDC regarding the Panel's minute concerning annotations on maps, dated 30 June 2017. In light of the view of the Panel relating to its jurisdiction (as expressed in its Minute dated 12 June 2017), this memorandum confirms the Council's updated approach to this matter and I refer to it.

2.2 I have not identified any evaluation in my evidence filed in this Hearing stream, that specifically assesses a submission on land that has not been notified in Stage 1 (whether the underlying zone, or a Plan Map annotation over that land).

3. MINUTE CONCERNING CONTENT OF COUNCIL REPLY

3.1 The Reply Minute requested that the Council address a number of general and submission specific matters in its reply. The general

matters identified by the Panel that are within my area of expertise are set out below. The matters raised by the Panel relating specifically to submissions are set out within the discussion on that particular submission.

3.2 A table is attached with the Legal Submissions filed as part of the Council's Reply (**Legal Reply**), which records where the matters raised in the Panel's Minute have been addressed in the Council's legal submission, the reply of a respective specialist, or in the general or submission specific components of this evidence.

3.3 I turn now to some of the general issues raised in the Reply Minute.

National Policy Statement for Urban Development Capacity 2016 (NPS-UDC)

'Urban Environment'

3.4 Question 4 (iii) of the Reply Minute was:

Please clarify the Council's view as to the ambit of the "urban environment(s)" in the Upper Clutha area for the purposes of the NPSUDC 2016. In particular, does the NPS definition of urban environment, with its reference to "land containing, or intended to contain, a concentrated settlement of 10000 people or more" mean that Hāwea and/or Luggate area within the Wanaka urban environment? [sic] If so, does that mean that the land between Hāwea and Wanaka (for instance) is likewise part of the Wanaka Urban Environment? Put another way, how "concentrated" does the settlement of people need to be to qualify? – Are the rural lifestyle zoned areas on Riverbank Road, for instance, part of the Wanaka Urban Environment, and if they are, does that mean that the rural zoned land between those rural lifestyle areas and the UGB are likewise part of the Wanaka Urban Environment? If rural lifestyle areas are insufficiently "concentrated" for this purpose, would rural residential areas qualify? Likewise, taking the proposed Lake Mackay Station Rural Residential Zone on the margins of Luggate, if recommended, would it extend any "concentrated settlement" of which Luggate forms part? Alternatively, if the more correct focus is

from the recognisably urban parts of Wanaka outwards, how far does one go in each direction before the land ceases to contain or be intended to contain a concentrated settlement of the required size?- to the UGB, or beyond it, and if beyond it, how far beyond it?

- 3.5** Part 8.2 of my DCM Evidence states that in my view the Wanaka Urban Environment comprises Wanaka, Albert Town, Luggate and Lake Hāwea Township. An accompanying footnote, states:

Lake Hāwea Township does not include the Rural Residential and Rural Lifestyle Zones located in Hāwea Flat, adjacent to Camphill and Newcastle Roads. Refer to Planning Map 18.

- 3.6** The portion of the Lake Hāwea Township that in my view is part of the 'Wanaka Urban Environment' is the land not zoned Rural, bordered by Domain Road, the Lake edge, Muir Road and to the south, Cemetery Road. The 'Wanaka Urban Environment' also includes the triangular shaped piece of Rural Residential Zoned land located to the east of Domain road and the south of Cemetery Road.

- 3.7** The area of Luggate that comprises part of the 'Wanaka Urban Environment' is all the Township zoned land and all of the immediately adjoining Rural Residential zoned land as identified on Planning Map 11a.

- 3.8** I consider that the Rural Residential zoning extension that I support in part, sought by Lake McKay Station Ltd (483), if approved would also logically form part of the Luggate contribution to the 'Wanaka Urban Environment'.

- 3.9** With the exception of the above areas delineating Lake Hāwea Township and Luggate, I consider that the rest of the Wanaka Urban environment is that contained by the Wanaka Urban Growth Boundary (**UGB**). I do not agree with the suggestion that any Rural Lifestyle Zoned land is part of the Wanaka Urban Environment. Nor would I agree with any suggestion that the Rural zoned land located between Wanaka and Lake Hāwea is part of this area. The same also applies to the Township settlements of Makarora. The Rural

Lifestyle Zone requires a minimum average density of 2 ha, with lots as small as 1 ha. This density is not considered 'urban'.

- 3.10** I consider that identifying these three geographically separate settlements as the Wanaka Urban environment is a practical approach, reflects the geographic constraints of the Upper Clutha and established patterns of settlement including where growth and intensification is anticipated.
- 3.11** While not directly related to the Panel's question, I do not believe there is the potential for these areas to become blurred or merged due to the effectiveness of the PDP strategic directions chapters and the Rural Zone provisions to control ad hoc urban growth. I consider that it is appropriate that for the purposes of the Upper Clutha, an area of land includes three contained, yet geographically separated settlements.

Traffic related upgrades

- 3.12** Question 4 (ix) of the Panel's reply Minute was:

During the course of the hearing, Ms Banks agreed to provide us with a table for situations where traffic related upgrades she had recommended were in her view critical to a positive zoning recommendation. We request that be included in the Council's Reply. In relation to any situations in this category, please advise the mechanism by which the Hearing Panel could be satisfied the relevant upgrades will be undertaken.

- 3.13** Ms Banks has compiled a table in her reply that sets out the respective submissions (see Appendix 1 to her reply evidence filed alongside this evidence), identifying where;
- (a) traffic related upgrades are critical to a positive zoning recommendation; or
 - (b) her concerns can be adequately addressed through the provisions of the PDP, QLDC Code of Practice or the QLDC Subdivision Guidelines.

- 3.14** I have used the Table from Appendix 1 of Ms Banks' evidence as a base, and added a column and provided comments where applicable on the mechanism by which the Panel could be satisfied the relevant upgrades will be undertaken (in **Appendix 3**). To provide context to this matter, the annotated Table also identifies what specific instrument or provisions would be applicable (i.e. what policy of the subdivision chapter).
- 3.15** I have based my recommendations on what is an appropriate mechanism, on the scale, intensity and effects of the rezoning request. I have identified three options being:
- (a) whether the effects can be addressed by what would be expected to be in the PDP Transport Chapter in terms of access and site performance standards; and
 - (b) whether there is sufficient certainty such that specific planning provisions including policies, rules and structure plans can be used.

Submissions requiring Part 2 considerations

- 3.16** Question 4 (x) of the Reply Minute was:

Mr Barr considered that there were no submissions other than that of M Beresford which required a wider Part 2 consideration but indicated he would need to review the submissions gained with that question in mind. Please confirm, or otherwise, Mr Barr's initial advice.

- 3.17** To reiterate, my answer to the Panel was given on a hypothetical basis that the objectives and provisions of the PDP, in the form of the Council's reply version were operative or 'established' and 'certain' in the *King Salmon* sense. I refer to the Legal Reply on this specific point. My understanding is that because the PDP is not operative and is subject to decisions on submissions (and therefore potential further modification by appeals), a broader analysis by the Panel is permissible, to determine whether a zone gives effect to Part 2 of the Act.

- 3.18** However, under the Panel Minute's hypothetical scenario, I confirm that I consider that it is only necessary to look beyond the PDP in relation to Mr Beresford's submission. As set out in my Rebuttal evidence, the operative Otago Regional Policy Statement (**RPS**) and the proposed Tangata Whenua Chapter (Chapter 5) of the PDP do not contemplate the complexities presented by Mr Beresford's submission in terms of section 8 of the Act 'Treaty of Waitangi' and that the Plantation land was intended to be utilised by the beneficiaries as a substitute to the original redress land located elsewhere.
- 3.19** I note this is consistent with Mr Chrystal's evidence and the submitter's case, as it also argues that the Panel must go beyond the provisions of the PDP. Mr Crystal's opinion is that benefits arising from having regard to the principles of the Treaty of Waitangi and providing the economic wellbeing of the submitter should override sections 6 and 7 of the Act, including at a cost to the social wellbeing of the wider community and District from the impacts of urban development within the Plantation site.
- 3.20** I also emphasise that the reason behind this view, is that I am satisfied with the evidence that has been brought by the Council in the hearings on the text of the 'Strategic' chapters, and in considering submitters' evidence, that these chapters give effect to and implement Part 2 of the RMA. I am therefore comfortable giving these chapters weight, except in the context of the Beresford submission where I have explained that I consider there is a gap. However, I understand the legal position to be that it is permissible and probably mandatory, to consider Part 2 in that the Strategic objectives, are not 'established' in the *King Salmon* sense

Effect of NZTA Rules

- 3.21** Question 4 (xii) of the Reply Minute was:

Please confirm the effect of the NZTA Rules (with appropriate cross references) governing the use of existing accesses to limited access roads if the nature and extent of the land use changes?

- 3.22** Limited Access Roads (**LAR**) is a status that applies to some State highways (or part thereof) under the Government Roading Powers Act 1989 (**GRPA**). Section 90 of the GRPA enables each parcel of land that adjoins or has legal access to a LAR that does not have reasonably practicable alternative legal access to some other road shall be entitled to at least one crossing place.
- 3.23** Section 91 of the GRPA gives the New Zealand Transport Agency (**NZ Transport Agency** or **Agency**) the discretion to specify the location, and formation of crossing places. Section 92 restricts persons from using (including moving animals) a crossing place without authorisation from the Agency. Section 93(1) provides that where any person wishes to exercise any right involving subdivision or use of land and that right is conditional on the land having access to a road, a LAR is deemed to not be a road *except for such purpose, to such extent, and on such conditions, as may be notified from time to time to the territorial authority or the Registrar-General of Lands.*

Landscape analysis for rural lifestyle subdivision applications

- 3.24** Question 4 (xiii) of the Panel's reply Minute was:

Does Mr Espie's evidence that he personally has authored approximately 15 landscape reports on rural lifestyle subdivision applications cause Mr Barr to reconsider his evidence that such applications are not normally accompanied by landscape analysis?

- 3.25** My answer is no, and I also take this opportunity to address some matters that arose through the course of the hearing with regard to the Rural Lifestyle Zone.
- 3.26** I accept Mr Espie's advice that it would not be unheard of for an application for a controlled activity subdivision in the Rural Lifestyle Zone to be accompanied by a landscape report. I also do not doubt that Mr Espie has provided numerous landscape reports for activities in the Rural Lifestyle Zone. However, overall, this is not common and I maintain my view that under the operative regime, it is not an expectation that a controlled activity subdivision application, including the identification of building platforms, or a controlled activity resource

consent application for a building within a building platform, would be supported by a landscape report.

- 3.27** I consider that there is an expectation under the ODP that Rural Lifestyle subdivisions, and controlled activity resource consent applications are supported by a landscape plan, but this is fundamentally different in substance and ultimately, environmental outcome, to a report by a suitably qualified, experienced and impartial person on the location of identified building platforms and any necessary landscaping requirements or restrictions.
- 3.28** However there could well be an expectation that a landscape report and plan is provided with a Restricted Discretionary Activity application for subdivision if the relevant PDP policy framework for that location sets out an expectation that this is necessary to achieve the objectives and policies applicable to that location. This would need to be specifically provided for in the policy framework or rules to distinguish where these zones are located, and as set out above, I do not consider this to be the case with the reply version of the Rural Lifestyle Zone provisions.
- 3.29** By way of example, the Rural Lifestyle rezoning request by Scurr et. al (783, 815) located adjacent to Cardrona Valley Road and Studholme Road that both Ms Mellsop and I support is considered a good fit for the Rural Lifestyle Zone provisions and the effects of activities can be managed by the respective PDP Subdivision and Rural Lifestyle Zone provisions, relative to the sensitivity of the environment.
- 3.30** By comparison, the request of Allenby Farms (502) for a Rural Lifestyle Zone on exposed slopes of the Mt Iron ONF, within a Significant Natural Area (**SNA**) is made on the basis of environmental compensation measures for an alternative SNA and the formal provision of walking trails across the submitter's land, accompanied by a bespoke planning framework in the order of 8 pages long, approximately half again the length of the notified Chapter 22. If this rezoning is accepted, future subdivision and development would

certainly require subsequent landscape reports where this fits within the bespoke provisions sought by Allenby Farms.

- 3.31** The requested Rural Lifestyle Zone sought by Glen Dene (384) and Jerry and Lesley Burdon (581), if accepted would also be likely to be supported by a landscape assessment and plan and an ecological report at the time of subdivision, because the requested provisions establish this expectation (see submitters' proposed Rule 3 and Policy A¹).
- 3.32** **Tables 1 and 2** below provide a randomly selected snapshot of subdivision and land use consents undertaken within Rural Lifestyle Zoned land in the Upper Clutha area, located at Hāwea Flat and Mt Barker (Refer to Planning Map 18).
- 3.33** These subdivisions were selected by running a report enquiry through the Council's database of all subdivisions in the Rural Lifestyle Zone in the Mt Barker and Hāwea areas. While I cannot confirm whether this is all subdivisions in the Rural Lifestyle Zone of these two locations I consider it is a fair representation of subdivisions that have occurred. The tables identify whether the application was prepared by a professional, and whether the application was support by a landscape report.

Table 1: Rural Lifestyle Zone subdivisions in the Hāwea Flat area.

Address - description of activity - date	RM Number	Application made by a professional?	Landscape assessment included?
R Patterson 470 Camphill Rd Boundary Adjustment Controlled Activity Approved 12 June 2007	RM070341	Paterson Pitts	no
Camphill Ltd 851 Kane Rd (lot 3 DP 303863) 21 lot subdivision	RM030966	Paterson Pitts	no

1 Agreed Statement of Evidence Ian Greaves and Duncan White on behalf of Lesley and Jerry Burdon (581) and Duncan White on behalf of Glen Dene Limited (384) 13 June 2017.

Address - description of activity - date	RM Number	Application made by a professional?	Landscape assessment included?
NC activity Approved 5 December 2003			
Camphill Ltd 851 Kane Rd Variation of consent conditions RM030966 as varied by RM060605, 21 lot subdivision. (To do with staging) Discretionary activity Approved 21 Jan 2008	RM071234	Paterson Pitts	no
Camphill Ltd Partridge Dr, Kane Rd 3 Lot subdivision (subdividing 2 lots into 3 thereby creating one additional lot) NC activity Approved 5 November 2010	RM100664	Paterson Pitts	no
Urquhart Corner of Newcastle and McLennan triangle 2 lot subdivision (to identify a 1000m ² building platform and vest 1m ² of land as road reserve) NC activity Approved 29 October 2014	RM140653	Paterson Pitts	No, but assessed in-house by landscape architect Richard Denney
Holmes 526 Camphill Rd 2 lot subdivision NC Activity Being assessed currently	RM170013	No	Not with application as lodged.

3.34 Running the same format of report enquiry through the Council's database, **Table 2** contains Rural Lifestyle Zone subdivisions in the Mt Barker Rural Lifestyle Zone (refer to Planning Map 18).

Table 2: Rural Lifestyle Zone subdivisions in the Mt Barker area.

Address - description of activity - date	RM Number	Application made by a professional ?	Landscape assessment included?
<p>Acernus Investments Ltd 751 Mt Barker Rd</p> <p>6 lot subdivision</p> <p>Transitional Plan: Rural B: NC Activity</p> <p>PDP: Rural Downland, then Rural Lifestyle through EC: NC Activity (for not meeting 2ha average)</p> <p>Hearing evidence in Trim, but couldn't find the decision.... But appears to have been approved in some form.</p>	RM990385	Paterson Pitts	<p>Peter Rough Landscape Architects (Rebecca Lucas) – landscape guidelines (planting).</p> <p>Assessed by in-house landscape architect Liz Kidson</p>
<p>Wallis 675 Barker Rd (opposite intersection with Faulks Rd)</p> <p>3 lot subdivision to create 1 additional lot with building platform (1.47ha, 2.65ha & 9.9ha)</p> <p>Transitional Plan: Rural B: NC activity</p> <p>1995 PDP: Rural General: NC activity</p> <p>ODP: Rural Lifestyle</p> <p>Approved 9 July 2001</p>	RM000831	Paterson Pitts	<p>Yes – Liz Kidson provided evidence at hearing</p>
<p>Faulks Family Trust 513 Mt Barker Rd</p> <p>2 lot subdivision (1.71ha and 4.33ha)</p> <p>Transitional District Plan: Rural B: NC activity</p> <p>ODP: Rural Lifestyle: Controlled Activity</p> <p>Approved 21 July 2003</p>	RM030227	Noel Bonisch Surveyors	No

Address - description of activity - date	RM Number	Application made by a professional ?	Landscape assessment included?
<p>Faulks 513 Mt Barker Rd</p> <p>3 lot subdivision (1.7ha, 3.03ha, 1.30ha)</p> <p>Transitional Plan: Rural 1: NC activity</p> <p>ODP: Rural Lifestyle: Controlled Activity</p> <p>Approved 18 March 2004 (superseded RM30227)</p>	RM031059	Noel Bonisch Surveyors	No
<p>Jelley 647 Mt Barker Rd</p> <p>2 lot subdivision and creation of one building platform (7.4159ha, 1.2182ha)</p> <p>Rural lifestyle and Rural General: NC</p> <p>Approved 20 October 2009</p>	RM090030	C. Hughes & Assoc.	Andrew Norwood
<p>Pyle 571 Mt Barker Rd</p> <p>2 lot subdivision and 1 building platform (1.08ha, 2.98ha)</p> <p>Rural lifestyle: NC activity</p> <p>Approved 2 February 2012</p>	RM110639	Paterson Pitts	No Assessed by landscape architects Richard Denney/ Marion Read for Council.
<p>Wallis 675 Mt Barker Rd</p> <p>Boundary adjustment (no additional lots or building platforms)</p> <p>Transitional Plan: Rural B: NC activity</p> <p>ODP: Rural Lifestyle & Rural General: Controlled activity</p> <p>Approved 18 March 2003</p>	RM030095	Paterson Pitts	No

Address - description of activity - date	RM Number	Application made by a professional ?	Landscape assessment included?
<p>Adair 591 Mt Barker Rd</p> <p>2 lot subdivision and one building platform (2.78ha & 1.29ha)</p> <p>Transitional Plan: Rural B: NC activity</p> <p>ODP: Rural Lifestyle: Controlled activity</p>	RM030518	Paterson Pitts	No
<p>Jelley 647 Mt Barker Rd</p> <p>4 lot subdivision; each with building platform</p> <p>Rural Lifestyle & Rural General: Controlled activity</p> <p>4 August 2005</p>	<p>RM040541 (modified by High Court, Spackman v QLDC CIV 2006-412-000843I 4 April 2007: court quashed lot 2, reducing it to 3 lots total)</p>	Hughes & Assoc.	Uncertain due to incomplete records.
<p>Jelley 647 Mt Barker Rd</p> <p>Variation –earthworks; alteration to location of approved building platform</p> <p>Rural Lifestyle & Rural General: DIS activity</p> <p>12 May 2008</p>	RM080110	Hughes & Assoc.	<p>No</p> <p>Assessed by Council Architect Andrew Norwood/Marion Read</p>
<p>Jelley 647 Mt Barker Rd</p> <p>Earthworks for building platform</p> <p>Rural Lifestyle & Rural General: RD activity</p> <p>27 June 2008</p>	RM080158	Hughes & Assoc.	<p>No</p> <p>Assessed Council Landscape Architect Andrew Norwood/Marion Read</p>

Address - description of activity - date	RM Number	Application made by a professional ?	Landscape assessment included?
Mt Acernus Holdings 709A Mt Barker Rd Boundary adjustment Rural General & Rural Lifestyle zone: DIS activity Approved 17 October 2007	RM110541	Paterson Pitts	No
Dupont Family Trust 721 Mt Barker Rd Subdivision consent to establish building platform on existing lot Rural Lifestyle: Controlled activity Approved 21 February 2013	RM120787	Paterson Pitts	No Assessed by Council landscape architect Richard Denney

3.35 I consider that generally, the Hāwea Flat Rural Lifestyle Zone has a lower landscape and visual amenity sensitivity than the Mt Barker Rural Lifestyle Zone because the Mt Barker Zone is located near the ONL (in terms of the PDP notified boundary) and is located on the slopes of the Criffel Range facing north and is visually exposed. By comparison, the Hāwea Flat Rural Lifestyle Zone is located on the floor of the Hāwea Basin. While I am not a landscape architect, I consider that it is within my area of expertise and my experience as a planner in this District to make this easily observable distinction between these two locations.

3.36 The results of this representative sample find that there were not any applications for Rural Lifestyle Subdivision in Hāwea Flat that were supported by landscape assessments.

3.37 In the Mt Barker Rural Lifestyle Zone the representative results show that there were 20 subdivision applications and 8 of these were supported by a landscape assessment. None of the applications that were accompanied by a landscape assessment had controlled activity status.

- 3.38** I acknowledge that these tables are only a snapshot in two locations, however I consider that they support my opinion and experience with administration of the ODP² that it is not an expectation that controlled activity subdivision in the Rural Lifestyle Zone is supported by a landscape report.
- 3.39** I note that it is common practice for the Council to seek internal landscape advice, irrespective of whether the application is supported by an assessment. Under a controlled activity regime this advice can be more about ensuring the adverse effects are not more than minor, within the context of recognising the inherent development rights under a controlled activity status, rather than amendments or a first principles design review that may produce an overall better environmental outcome. The latter may have been the case if the applicant had sought landscape advice from the outset and this was integrated into the design.
- 3.40** Often by the time a subdivision application is lodged with a council the design is fairly well advanced in terms of commitments to pricing and infrastructure and it is often quite clear whether or not the design elements supported by a landscape architect were incorporated by a landscape architect from the outset.

The PDP provisions relating to the identification of Building Platforms

- 3.41** Also during the course of the hearing, and in particular during the Panel's questions to the advisors for the Lesley and Jerry Burdon (581), Glen Dene (384), Allenby Farms (502) and JBIL (820) submissions, there were various exchanges as to the overall purpose of the Rural Lifestyle Zone, procedural components of the chapter and expectations of environmental outcomes.
- 3.42** As stated in the Purpose statement (22.1) the PDP framework for residential activity in the Rural Lifestyle Zone is based upon the development rights for, and location, of future buildings being identified at the time of subdivision. Once the subdivision is completed the construction of buildings within approved building

² Acknowledging my experience in this District is not as extensive as Mr Espies'.

platforms is a permitted activity, subject to compliance with a range of performance standards.

3.43 There is a mechanism (Rule 22.2.5) that provides for land use consent to establish building platforms as a discretionary activity. This rule was introduced into the PDP to correct a deficiency with the operative rules that only contemplates the establishment of a building platform through subdivision.³ A discretionary activity land use consent provides the opportunity to establish a development right, however these instances are uncommon and a careful examination would likely be required to ensure that the land subject to the application for a building platform is not balance land from a previous subdivision required to achieve the 2 hectare average. This rule is not intended to apply to residential activity associated with an approved building platform.⁴

3.44 Because the Panel members were not all involved in the Rural hearing (Stream 2, May 2016) or Subdivision hearing (Stream 4, July 2016), I have provided an outline of the Council recommended PDP provisions associated with subdivision and establishment of building platforms in the Rural Residential Zone:

- (a) Subdivision Rule 27.5.7 states that subdivision is a Restricted Discretionary Activity in the Rural Lifestyle Zone. Discretion is restricted to:
 - (i) The location of building platforms;
 - (ii) Lot sizes and dimensions in respect of internal roading design and provision, relating to access and service easements for future subdivision on adjoining land;
 - (iii) Subdivision design and lot layout;
 - (iv) Property access and roading;
 - (v) Esplanade provision;

3 Refer to RM120787 Dupont Family Trust and also refer to page 42 of the Section 32: Rural Residential and Rural Lifestyle Zone. <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Section-32s/Rural-Residential-and-Rural-Lifestyle-Zone-s32.pdf>

4 The Council's reply version has amended the drafting to made this clearer.

- (vi) On site measures to address the risk of natural and other hazards on land within the subdivision;
- (vii) Fire fighting water supply;
- (viii) Water supply;
- (ix) Stormwater disposal;
- (x) Sewage treatment and disposal;
- (xi) Energy supply and telecommunications;
- (xii) Open space and recreation;
- (xiii) Ecological and natural values;
- (xiv) Historic Heritage;
- (xv) Easements; and
- (xvi) Bird strike and navigational safety.

(b) Subdivision provision 27.9.3 sets out that the Council shall have regard to but not be limited by the following assessment criteria (matters relating to landscape underlined):

- (i) The extent to which the design maintains and enhances rural living character, landscape values and visual amenity;
- (ii) The extent to which the location of building platforms could adversely affect adjoining non residential land uses;
- (iii) Orientation of lots to optimise solar gain for buildings and
- (iv) developments;
- (v) Lot sizes and dimensions in respect of widening, formation or upgrading of existing and proposed roads and any provisions relating to access for future subdivision on adjoining land.
- (vi) Whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;

- (vii) *The effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;*
 - (viii) *The location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways, their safety and efficiency;*
 - (ix) *The extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;*
 - (x) *The purposes for the creation of esplanade reserves or strips set out in section 229 and section 237 of the Act;*
 - (xi) *The provision of services in accordance with Council's Code of Practice for Subdivision;*
 - (xii) *In the case of the Makarora Rural Lifestyle Zone, the concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;*
 - (xiii) *In the Rural Residential Zone at the north end of Lake Hayes, the protection and restoration of wetland areas;*
 - (xiv) *Easements for existing and proposed access and services;*
 - (xv) *Where no reticulated water supply is available, sufficient water supply and access to water supplies for firefighting purposes in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 must be provided.*
 - (xvi) *Refer Policies 27.2.1.2, 27.2.4.5, 27.2.4.6, 27.2.5.4, 27.2.5.5, 27.2.5.10, 27.2.5.12, 27.2.5.15, 27.2.5.17 and 27.2.7.1.*
- (c) Subdivision Rule 27.6.1 requires that the minimum allotment size in the Rural Lifestyle Zone shall be one hectare

providing the average lot size is not less than 2 hectares. For the purpose of calculating any average, any allotment greater than 4 hectares, including the balance, is deemed to be 4 hectares. In Makarora there is no minimum allotment size but an average of 2ha is required.

- (d) Subdivision Rule 27.5.17 states that the further subdivision of an allotment that has previously been used to calculate the minimum average densities for subdivision in the Rural Lifestyle Zone and Rural Residential Zone shall be a Non-complying Activity.
- (e) Subdivision Rules 27.5.18 and 27.5.19 states that the subdivision of land resulting in the division of a building platform and the subdivision of a residential flat from a residential unit shall be a Non-complying activity.
- (f) Subdivision Rule 27.5.3 requires that for any Controlled Activity boundary adjustment the building platform must be retained in the approved location and no new residential building shall be identified.
- (g) Subdivision Rule 27.7.12.1 states that in the Rural Lifestyle Zone every allotment created for the purposes of containing residential activity shall identify one building platform of not less than 70m² in area and not greater than 1000m².

3.45 The following land use rules are pertinent to residential activity in the Rural Lifestyle Zone:

- (a) The construction and exterior alteration of buildings located within a building platform approved by resource consent or registered on the applicable computer freehold register is a permitted activity pursuant to Rule 22.4.3.
- (b) The construction of buildings not located within a building platform is a Non-complying Activity pursuant to Rule 22.4.1.

- (c) The identification of a building platform not less than 70m² and not greater than 1000m² for the purposes of a residential unit, except where identified in Rule 27.5.1.1 shall be a discretionary activity [CB 16].⁵
- (d) The exterior colours and reflectance value of all buildings larger than 5m² is subject to performance standards in Rule 22.5.1. Non-compliance is a Restricted Discretionary activity.
- (e) Building coverage, building size, setback from internal boundaries or waterbodies are subject to performance standards in 22.5. Non-compliance is a Restricted Discretionary activity.
- (f) Building Height, glare, setback from roads and residential density are subject to standards in Rule 22.8. Non-compliance is a Restricted Discretionary activity.

The extent to which the Rural Lifestyle Zone provisions can manage the effects of residential activity

3.46 More broadly than the context of Mr Espies' submission for JBIL (820), I am concerned that submitters are straining the purpose of the zone to accommodate development proposals that are more akin to resource consent applications that have been packaged as rezoning requests⁶ to take advantage of a rezoning opportunity through the District Plan review. Primarily, this is where the requested Rural Lifestyle Zone is located within or adjacent to an ONL or ONF.

3.47 I recall a comment made by Commissioner Hudson during the hearing that in light of all the rezoning requests and accompanying bespoke zoning provisions, as to whether the matter at issue was the efficacy of the Rural Lifestyles Zone provisions in the PDP, and not the relief sought by the submissions. It is my strong view that it is not

5 [CB 18] Rule 27.5.1.1 has been renumbered, redraft Subdivision Rule 27.5.7. This cross reference has not been recommended to be updated to Chapter 22 to date, as a consequential amendment.

6 For instance the submissions of Lake McKay Station (Areas 1 and 4), Allenby Farms (502) and Jerry and Lesley Burdon (581).

the efficacy of the Rural Lifestyle Zone provisions, but rather that there are a number of submissions seeking the application of the Rural Lifestyle Zone in sensitive locations within or adjacent to ONLs and ONFs that are straining the purpose of, and environmental outcomes anticipated through, the zone.

3.48 An example of this are the rules (including standards) promoted by Allenby Farms (502) as part of their rezoning proposal to the North facing slopes of Mt Iron, an ONF, to a Rural Lifestyle Zone. These bespoke provisions include standards restricting the planting of exotic vegetation to not more than 1.0 metre from ground level. As stated in my rebuttal evidence there has not been an adequate s32 evaluation of the efficiency and effectiveness of such rules and I also question practicability of such rules. I consider that these such rules run the risk of setting up a zone framework that will fail, because while the overall purpose is to provide for living opportunities in rural locations, such opportunities would be unduly constrained by ill-conceived rules to appease landscape concerns that are potentially unreasonable for future occupants to adhere to, and for the Council to enforce.

3.49 My answer to Ms Hudson's question is therefore the same that I made throughout my respective EIC⁷ and rebuttal statements. I consider that there needs to be sufficient certainty that a rezoning to Rural Lifestyle Zone would be more appropriate than the Rural Zone, and where that certainty cannot be satisfied, or does not meet the respective tests in section 32, the most appropriate zoning is the Rural Zone. This is particularly so when compared to the tools available through the Assessment Matters in Part 21.7 and the Landscape Chapter objectives and policies in Chapter 6, that enable the Council to decline an application if there is insufficient certainty that the application gives effect to the Strategic Directions of the PDP, and Act.⁸

3.50 The Panel asked me during my appearance at the Hearing to what extent does the Rural Lifestyle Zone give effect to section 6 of the Act by managing the ONL. After careful consideration my answer is that

⁷ Refer to my Strategic Overview at 15.76-15.77.

⁸ Mr Graham Taylor's planning evidence for John May (1094) provides another planning perspective on the efficacy of the Rural Zone provisions, in this case compared to the requested Glendhu Station Zone.

it is marginal at best. I advised that there are areas zoned Rural Lifestyle Zones that are located within what would otherwise be ONL, however the Rural Lifestyle provisions are not nearly as effective as managing the effects of development on the ONL or the RLC (section 7 landscapes) as the Rural Zone.

- 3.51** The objectives and policies in the Rural Residential and Rural Lifestyle Zones Chapter that manage the effects of activities on the landscape are **[CB16]**:

Objective 22.2.1

The district's landscape quality, character and amenity values are maintained and enhanced while enabling rural living opportunities in areas that can absorb development.

Policies

22.2.1.1 Ensure the visual prominence of buildings is avoided, remedied or mitigated particularly development and associated earthworks on prominent slopes, ridges and skylines.

22.2.1.2 Set density and building coverage standards in order to maintain the open space, rural living character, amenity and landscape values.

22.2.1.3 Allow for flexibility of the density provisions, where designed and innovative patterns of subdivision and residential development, roading and planting would enhance the character and amenity of the zone and the District's landscapes.

22.2.1.4 Manage anticipated activities that are located near Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish the qualities of these landscapes and their importance as part of the District's landscapes.

22.2.1.5 Maintain and enhance landscape values and amenity within the zones by controlling the colour, scale, location and height of permitted buildings and in certain locations or circumstances require landscaping and vegetation controls.

22.2.1.6 Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or the night sky.

- 3.52** The policies seek to manage development that is inevitable at a 2 ha intensity across the zone. I also consider that they are directive enough to be effective at discouraging development from sensitive vocations, however I do not consider the Rural Lifestyle Zone is designed to give effect to section 6(b) of the Act the same as Chapter 21 Rural Zone. I consider that where applied sparingly and appropriately, where the landscape can absorb development, the Rural Lifestyle Zone gives effect to section 7(c) of the Act.

Two household units – residential flat provisions

- 3.53** Question 4 (xiv) of the Reply Minute was:

Do any adverse effects arise from the potential for 2 household units (through operation of the residential flat provisions in the PDP) to be established on any site, that have not previously been considered in the evidence given by Council experts? If not, what difference does that consideration make to their recommendations, if any?

- 3.54** I instructed the respective specialists to undertake their assessments based on the assumptions used to calculate the development yield sought from rezonings in part 14 of my Strategic EIC. In particular, for the Low Density Residential Zone the estimates of infrastructure and traffic generation were based on a density of 450m² per residential unit. For greenfield areas 32% of the area requested to be rezoned was deducted to allow for roads and open space.

- 3.55** The provision for a residential flat was not included in terms of infrastructure and traffic generation because overall, the uptake of

residential flats is not anticipated to be great, and the likely intensity of residential development from an overall network perspective would be less than 450m². In terms of uptake, there are currently only 63 registered residential flats in the Upper Clutha area (5 in Hāwea, 5 in Luggate/Albert Town and 53 in Wanaka). In terms of intensity, the Wanaka urban area has been developed under a regime of requiring a 700m² minimum site area for subdivision, and it is not a mandatory requirement of the PDP that subdivision is undertaken to achieve a minimum density.⁹ Therefore, the wider Wanaka Low Density Residential Zone (**LDRZ**) within the PDP Urban Growth Boundary has been developed to a density lower than 450m², and I consider it fair to assume this housing stock will not be replaced all at once, and that overall, the estimated density of 450m² is considered an appropriate yardstick.

- 3.56** It is also my view that opportunities for infill or intensification are likely to occur on sites greater than 450m² where it is more feasible for retention of privacy, amenity, vehicle manoeuvring and parking, while achieving the respective bulk and location provisions. This balances the potential theoretical scenario of two dwellings every 450m².
- 3.57** I consider it would have been unfair on submitters, and have potentially provided an inaccurate representation to the Panel, by the Council, if the effects of rezoning on infrastructure and the road network if the LDRZ was assessed on the basis that two dwellings would be established every 450m².
- 3.58** Overall, I do not consider that any adverse effects arise from not including two dwellings on each site, because the potential likelihood for residential flats was considered as part of the assumptions to calculate density.

Road Plan Provisions

- 3.59** Question 4 (xv) of the Reply Minute was:

⁹ For example, there is not a maximum allotment size specified in urban areas.

Please identify the Plan provisions related to roads, in particular where the PDP states that roads are not zoned.

3.60 I have not identified any PDP text provisions that state that roads are not zoned. On the planning maps, roads are shown in white, and identified as such on the Plan Map legend. There are numerous provisions relating to roads throughout the notified PDP,¹⁰ however I consider that the most relevant provisions in this instance are:

- (a) the definition of Road in Chapter 2 Definitions: *Means road as defined in section 315 of the Local Government Act 1974;* and
- (b) Part A of the Designations Chapter 37 at page 37, which states that all roads are deemed to be designated for the purpose of Road, followed by advice on stopping roads.

3.61 I note that in the Council's s42A version of the Designations Chapter, Ms Rebecca Holden has recommended that these provisions are modified so that the reference to roads being 'deemed to be designated' is deleted, and also the advice associated with selecting a zone when a road is stopped.¹¹

3.62 The Council is currently preparing the PDP Transport chapter, with the aspiration of notification in September 2017, the matter of whether roads should be zoned are expected to be considered as part of the section 32 evaluation for that body of work.

4. STRATEGIC OVERVIEW

Future Plan Changes and Structure Plans

4.1 During my appearance at the hearing, the Panel asked me whether private plan changes are promoted via the policy framework and my answer was that the PDP did not discourage the opportunity for private plan changes. Private plan changes can of course be made

¹⁰ For example, bulk and location setbacks from roads, and definitions that use the road boundary as a defining element.

¹¹ Synopsis of Legal Submissions for Queenstown Lakes District Council dated 7 October 2016 for Hearing Stream 7, at section 7.

as of right under the RMA, where the statutory tests must be achieved. In terms of the PDP framework more specifically, I have further considered the Panel's question. I consider that the PDP encourages larger scale development that would be of strategic importance through the Schedule 1 plan change process, rather than through a resource consent, for the following reasons:

- (a) the Subdivision Chapter encourages the use of structure plans through providing a controlled activity status for subdivision in accordance with a structure plan, rather than the default restricted discretionary activity status.¹² Structure plans can only be included in the district plan through a Schedule 1 process (I return to this below). I consider this provides an incentive to pursue a Schedule 1 process rather than a resource consent;
- (b) I consider the following strategic policies contemplate plan changes and in particular, acknowledge that urban growth boundaries could change over the life PDP, again by way of a plan change;
 - (i) Urban Development Chapter Policy 4.2.1.2 *Urban development is integrated with existing public infrastructure, and is designed and located in a manner consistent with the capacity of existing networks;*
 - (ii) Urban Development Chapter Policy 4.2.1.6 *Avoid sporadic urban development that would adversely affect the natural environment, rural amenity or landscape values; the efficiency and functionality of infrastructure; or compromise the viability of a nearby township;*

12 The notified PDP Subdivision Chapter had a discretionary activity status for subdivision with restricted discretionary for subdivision with a structure plan.

- (iii) Urban Development Chapter Policy 4.2.1.7 *Urban development is located so as to maintains the productive potential and soil resource of rural land;*
 - (iv) Urban Development Chapter Policy 4.2.2.5 *Urban Growth Boundaries may need to be reviewed and amended over time to address changing community needs;*
 - (v) Urban Development Chapter Policy 4.2.3.4 *Urban development occurs in locations that are adequately serviced by existing public infrastructure, or where infrastructure can be efficiently upgraded;*
 - (vi) Landscape Chapter Policy 6.3.1.5 *Encourage Rural Lifestyle and Rural Residential Zone plan changes in preference to ad-hoc subdivision and development and ensure these occur in areas where the landscape can accommodate change;*
and
 - (vii) Landscape Chapter Policy 6.3.1.6 *When locating urban growth boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise disruption degradation to of the values derived from open rural landscapes.*
- (c) I am aware the Chair of the Hearings Panel issued a Minute on 22 May 2017¹³ identifying matters appropriate for a variation, which included a recommendation to consider a new policy framework regarding structure plans in Chapter 27:

13 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General/General-Recommended-matters-for-Variation-22-5-17.pdf>

The need for a policy framework identifying among other things, what Structure Plans are, what they must contain, and how they are used within the District Plan is identified in Mr Bryce's Stream 4 reply (Section 9). He also noted that a variation is needed to correct this matter.

- 4.2** For any structure plan to be included in the District Plan it would need to go through a Schedule 1 process that requires Council oversight and advice as to what a structure plan is, how it would be used in the District Plan, and what they must contain. These matters would be part of communications between the requestor and the Council prior to a private plan change being accepted for notification. While clear guidance or specified requirements for structure plans would clearly be beneficial, I do not consider the PDP to be deficient without it.

Contact Energy (580)

- 4.3** In my Strategic EIC I recorded at Part 4.1 that the submission by Contact Energy (580) to exclude the ONL line over the Hydro Generation Zone was not within scope of Stage 1 of the District Plan Review because the Hydro Generation annotation was shown only for information purposes only and is not a Stage 1 zone.
- 4.4** The Panel suggested that this submission was more than likely within scope because the underlying Rural Zone is itself in Stage 1, despite the Operative Hydro Generation Zone being shown on the Stage 1 planning map as an overlay. I accept that the Panel's suggestion is correct; the Hydro Generation Zone is in essence a subzone of the Rural zone, that hasn't yet been reviewed and notified.
- 4.5** In relation to the ONL line in this location, I maintain my opinion provided at the hearing that the landscape lines should apply because the Hydro Zone is only an overlay that is realistically only applicable to one type of land use, being the construction and operation of hydro electricity generation activities. A range of activities or applications could occur under the PDP Rural Zone provisions, and are in practice occurring (under the ODP Rural

General Zone) by other parties within land that is affected by the operative Hydro Generation Zone overlay. In addition the landscape lines are an important mechanism of the plan to manage landscapes and give effect to sections 6 and 7 of the Act.

- 4.6** I also consider that it is especially important because the operative Hydro Generation Zone overlay affects land that is not owned by Contact Energy, and the Operative Hydro Generation Zone overlay provisions can only be utilised for the purposes of constructing and operating hydro electricity generation.
- 4.7** For these reasons therefore, I maintain my recommendation given verbally at the hearing that the landscape lines should apply over this land and the submission be rejected.

Outer Growth Boundary

- 4.8** John and Jill Blennerhassett (773) and Trustees of the Blennerhassett Family Trust (413) appeared on 2 June and explained that in their view an outer growth boundary should be included on the PDP planning maps and that it should cover the Rural Zoned land between the notified UGB, and north to Ruby Island Road to Ruby Island Road to include both their land referred to as 'Barn Pinch Farm' and Rippon Vineyard' on Wanaka – Mt Aspiring Road. Mr and Mrs Blennerhassett seek this to provide for future urban development in a coordinated manner that would be connected to the existing township of Wanaka.
- 4.9** Similarly, John Wellington (640) appeared on 12 June and considered that an outer growth boundary should be included on the planning maps to prevent inefficient rural living development that would constrain opportunities for future urban growth to the south of Wanaka along Cardrona Valley Road, where in his view an extension to urban Wanaka would be more appropriate than in other locations that have high landscape values.
- 4.10** As set out in my Strategic evidence at Parts 17.4-17.9 I do not consider an outer urban growth boundary is necessary or helpful in

achieving the relevant objectives of the plan or the Council's functions under the Act. I also consider that any outer growth boundary would need a supporting policy framework that gives effect to this, which may well include deferred zonings, so it is not just a matter of including it in the Planning Maps, as suggested by the submitters. No such policy framework has been proposed or analysed against sections 32 or 32AA of the RMA.

- 4.11** I also maintain my view that I do not support deferred zoning of these submitter's land because it is not appropriate and the Council has committed to investment in infrastructure within the Wanaka UGB and settlements of Luggate and Lake Hāwea.
- 4.12** I also refer to my DCM Evidence and Mr Osborne's evidence on housing capacity that confirms that the Upper Clutha area has adequate realisable development capacity for housing out to at least the year 2048.
- 4.13** I also consider that the NPSUDC will ensure the Council does not lose sight of future planning and the opportunity for growth strategies as required by the NPS, in terms of the requirement to complete a future development strategy under PC12 – PC14 (as also discussed above under the Panel's Reply Minute general questions).
- 4.14** I maintain my recommendation that an outer growth boundary is not necessary as part of the PDP, nor more appropriate than the Council's approach in terms of section 32, and in any event no policy framework has been promoted nor supported by evidence, that would give an outer growth boundary of the planning maps, any regulatory effect.

Urban Growth Boundary at Lake Hāwea

- 4.15** During my appearance at the hearing, the Panel asked me whether there should be an urban growth boundary for Lake Hāwea, including whether this is more of a principle, or an environmental best-fit, and if an urban growth boundary in this area would assist with discouraging

applications for urban development in the rural area south of Cemetery Road.

4.16 Having considered these matters I maintain my recommendation set out at Part 18 of my Strategic evidence, and my response at the hearing, that this is not appropriate for Lake Hāwea. This is because the strategic planning framework of the PDP is more appropriate in applying a UGB for encouraging consolidation at Wanaka, with less emphasis on the settlements of Lake Hāwea and Luggate.

4.17 I also maintain that the provisions of Chapter 4, Urban Development, Chapter 6, Landscapes and Chapter 21 Rural Zone will be effective at controlling the sprawl of urban development, or inappropriate rural living development in the Rural Zoned area of Hāwea Flat. Therefore, I consider that the PDP gives effect to what I understand to be the motivating factors of the submitters who seek an urban growth boundary to contain urban development and prevent urban sprawl across Cemetery Road and into the Rural Zoned areas of the Hāwea Basin.

4.18 I also consider that wrapping lines around Lake Hāwea would create complications in the PDP planning framework where it would result in the Rural Residential Zones being located within an UGB. There are not any Rural Residential Zones within any UGBs in the District. While there is scope to rezone the Rural Residential Land to various types of urban zones,¹⁴ I remain of the view that the notified zoning is more appropriate than that sought in these circumstances.¹⁵

Identification of ONLs and ONFs

4.19 Part 11 of the Council's legal reply has responded to the Panel's Reply Minute Question 4 (xii), and the Council accepts that a 'top-down' approach in which environmental facts are established first, and the consequences of those facts (ie, the appropriate plan provisions) then flow from those findings.

¹⁴ For instance the submissions of Jude Battson (460), Willowridge (249) Street Developments (697).

¹⁵ The submissions associated with rezoning the Rural Residential Zoned land at Lake Hāwea is addressed further in this reply.

- 4.20** Utilising the submission of Universal Developments Ltd (177), who sought that the landscape lines should only apply over Rural Zoned land, in my Strategic EIC at Part 20, I identified that where the ONF line was located over the LDRZ zone at the western base of Mt Iron, the ONF should be moved (up to approximately 30 metres eastwards) so that it is located out of the LDRZ and on the Rural Zone.
- 4.21** My understanding of locating the ONF boundary at this location was to follow the cadastral boundaries of established urban development at the western base of Mt Iron.
- 4.22** My reasoning for this modification in my Strategic EIC was because the LDRZ zone does not sufficiently manage section 6(b) matters and I do not consider it to give effect to the PDP Strategic Chapters (3,4 and 6). An excerpt of the planning map is provided below:

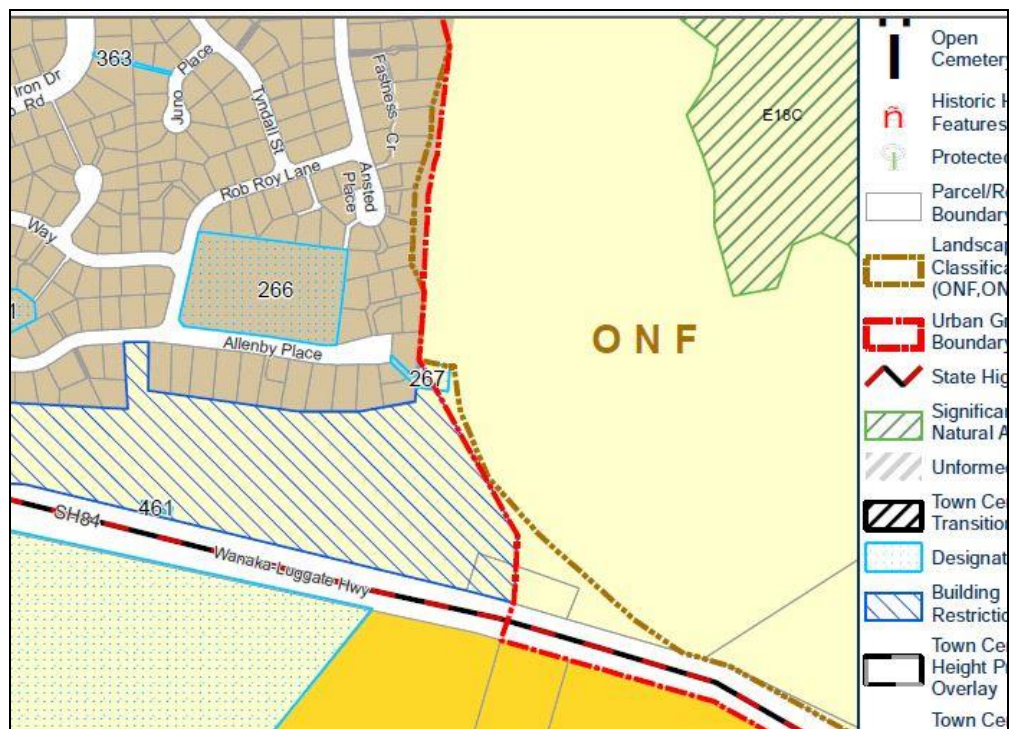


Figure A. Annotated Planning Map 21 illustrating the area of LDRZ land located within the ONF (brown are allocated between the dotted brown ONF line and the dotted red Wanaka UGB).

- 4.23** I note that this land is part of the requested alternate BRA proposed by Allenby Farms (502), however I do not consider there is any scope through either the Allenby Farms (502), Universal Developments

(177) or any other submissions to rezone the land located to the east of the Mt Iron ONF boundary from LDRZ to Rural Zone.

- 4.24** While there are not any specific rules relating to the ONL for the Rural Lifestyle Zone at this location, the location of the ONL boundary at this location is helpful, and in my view would assist with the application of the Assessment Matters for subdivision in the Rural Lifestyle Zone (22.5.7) in the event a subdivision application or land use consent was made for a building platform within the area identified as ONL.
- 4.25** I also identified a portion of the Rural Lifestyle Zone at Wanaka – Mt Aspiring Road to be rezoned from Rural Lifestyle to Rural where the ONL boundary crossed through a portion of land (see **Figure C** below). Again, I accept that this is not the correct 'top-down' approach, however nor do I consider there to be scope through any submissions to amend the underlying zoning.
- 4.26** This Rural Lifestyle Zoned property¹⁶ is located over 5.6 ha in area and while this theoretically provides for two dwellings/lots, I consider it would be unlikely that a building platform/residential activity would establish within the ONL for reasons to do with hazards.¹⁷ **Figure B** below illustrates the watercourse and topography of the site where the ONL is located.

16 299 Wanaka – Mt Aspiring Road Lot 1 DP 27192.

17 **[CB 76]** Central Wanaka: Alluvial Fan ORC & Regional Sclae, Liquefaction Risk (Pages 3 and 4).

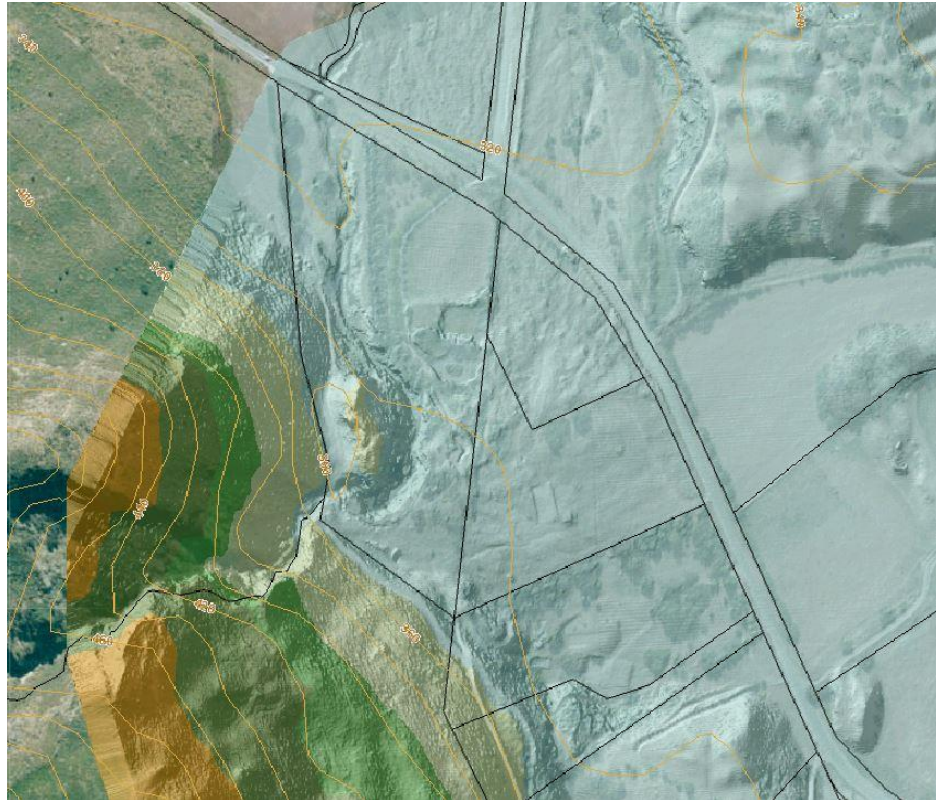


Figure B. QLDC webmap image illustrating the watercourse and topography of the site.

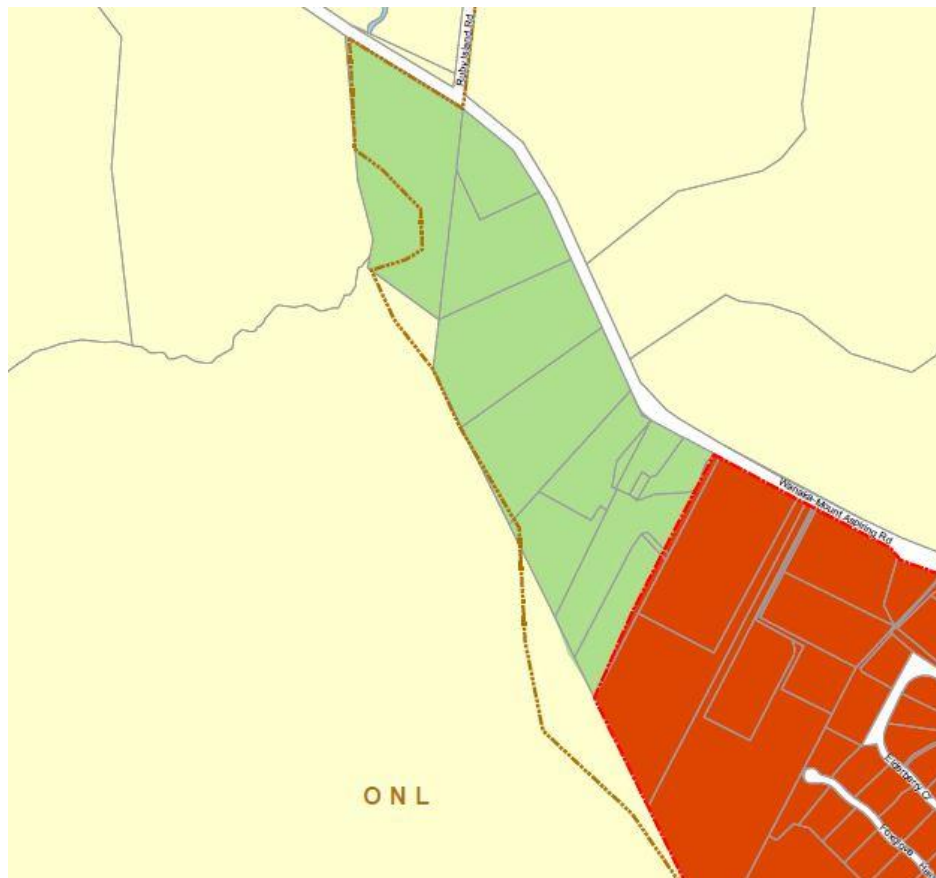


Figure C. Planning map 22 illustrating the area of ONL over the Rural Lifestyle Zone.

5. DWELLING CAPACITY MODEL

- 5.1** During my appearance at the hearing, the Panel asked me whether my interpretation of NPSUDC PA1 was that all land that is zoned for urban development, should be serviced. My answer at the hearing was yes and I maintain that opinion. I consider one of the key outcomes sought by the NPSUDC is to ensure that Council's align their land use zoning with infrastructure and the future investment in infrastructure under the 10-year Long Term Planning cycles, to help ensure that zoned land is readily able to be developed and Council's regulatory and infrastructure planning does not lag behind the market.
- 5.2** I also consider that this is why it is important to have a UGB for Wanaka because it provides certainty to the community as to where the Council will invest in infrastructure, in particularly trunk water infrastructure and upgrades to the existing road network. It is therefore important that the Council have sufficient housing capacity within zoned areas for urban development, and as set out in my DCM Evidence and the housing capacity and reply evidence of Mr Phil Osborne, this is achieved for the Upper Clutha at least up to the year 2048, based on the Council's recommendations.
- 5.3** The only qualified expert evidence on housing capacity received from submitters was from Ms Hampson for submitter Michael Beresford (149). Ms Hampson queried some matters of the Council's DCM and Mr Osborne's findings. Mr Osborne's reply evidence addresses these points.

GROUP 1A WANAKA AND LAKE HĀWEA URBAN S42A REPORT

6. WANAKA KIWI HOLIDAY PARK AND MOTEL LTD (592)

- 6.1** Having considered the questions from the Panel on this submission, and more broadly the question of whether there should be a District Wide chapter for visitor accommodation, I maintain my recommendation set out in my Group 1A evidence that the submission should be rejected. As set out by Ms Wendy Banks in her

EIC there is insufficient certainty as to the nature and scale of activities and the extent to which traffic generation, including coach access and parking, can be adequately managed.

6.2 I also maintain that the resultant activity status under the Large Lot Residential Zone for visitor accommodation at the Holiday Park site should be restricted discretionary due to the mitigation that would be required to address natural hazard issues.

6.3 The matter of whether there should be a District Wide chapter for visitor accommodation was also raised by the Panel during the hearing. From a planning perspective, I consider that a visitor accommodation zone has merit, however I consider that a thorough section 32 evaluation is necessary to assess the options and alternatives. If it was to be an overlay, the location of the provisions within the plan would need careful analysis, if it was to sit over more than one underlying zone, particularly the extent to which the overlay would give effect to relevant objectives.

6.4 In particular, there would be a need for section 32 analysis into the extent to which the district wide chapter would address only the visitor accommodation activity, or also amend the bulk and location rules in the chapter. There could be a proliferation of bespoke rules in such a district wide chapter that could prove inefficient or ineffective. Therefore, I have not formed a view as to whether a district wide chapter is the most appropriate way to manage visitor accommodation in the urban zones. However I acknowledge that the Council will need to address this matter sooner rather than later as part of its review of the urban zone visitor accommodations that have been withdrawn from the PDP.

7. ANZAC TRUST (142)

7.1 The Panel asked me during my appearance at the hearing to clarify the recommended amendment to the Large Lot Residential Zone to better facilitate the further subdivision of the property at 361 Beacon Point Road.

7.2 I support the suggested change in the zone shape as set out in the submission by the Anzac Trust. The submission includes two figures (A) and (B) that show the zone shape for each potential future allotment, illustrating how the minimum allotment of 4000m² would be achieved.

7.3 **Figure 1** below shows my recommended zoning layout. As set out in the Anzac Trust submission, the areas to be zoned Rural would have a Building Restriction Area (**BRA**) overlaid upon them.

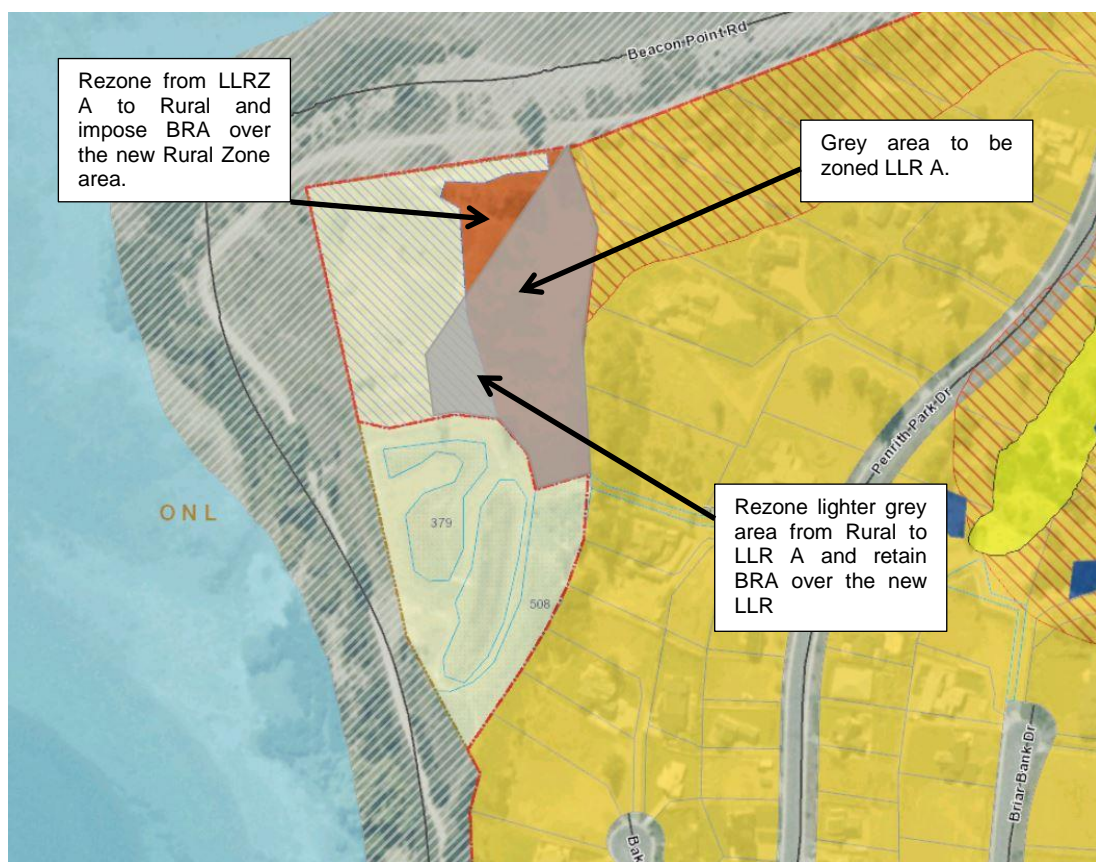


Figure 1. Planning Map 19: Recommended zoning for Anzac Trust.

8. WEST MEADOWS DRIVE AND STUDHOLME ROAD AREA

8.1 Having considered questions from the Panel, the information and evidence of submitters and Reply Minute question 5(ix) to Ms Wendy Banks, I recommend that the West Meadows Drive and Studholme Road area can be rezoned to Low Density Residential, as provided for in the submission of Willowridge (249). I make this recommendation on the basis that there is certainty that a road

connection will be made available from the zoned area to the north, through the 'Alpha Ridge' subdivision that is also being developed. Ms Banks has confirmed in her Reply that she can now support the rezoning on the basis that there is road connection as the road connection to the north will help distribute traffic more evenly onto Cardrona Valley Road.

- 8.2** A structure plan and amendments to the policy framework to the subdivision chapter are recommended for this potential rezone area. The roading connection is intended to be the same as that shown on the plan tabled by Mr Dippie (Exhibit 23) during his appearance.
- 8.3** On this basis I recommend the submissions of Willowridge (249), Mr Anderson and Ms Blennerhassett (335) are accepted. **Figures 2 and 3** below show the respective submission diagrams, and **Figure 4** shows the areas recommended to be zoned from LLR to LDR, within the scope available by those submissions.
- 8.4** Recommended revisions to the Subdivision Chapter containing a structure plan including the roading connection from West Meadows Drive to the north and provisions are attached at **Appendix 6**. A s32AA evaluation is included in **Appendix 9**.

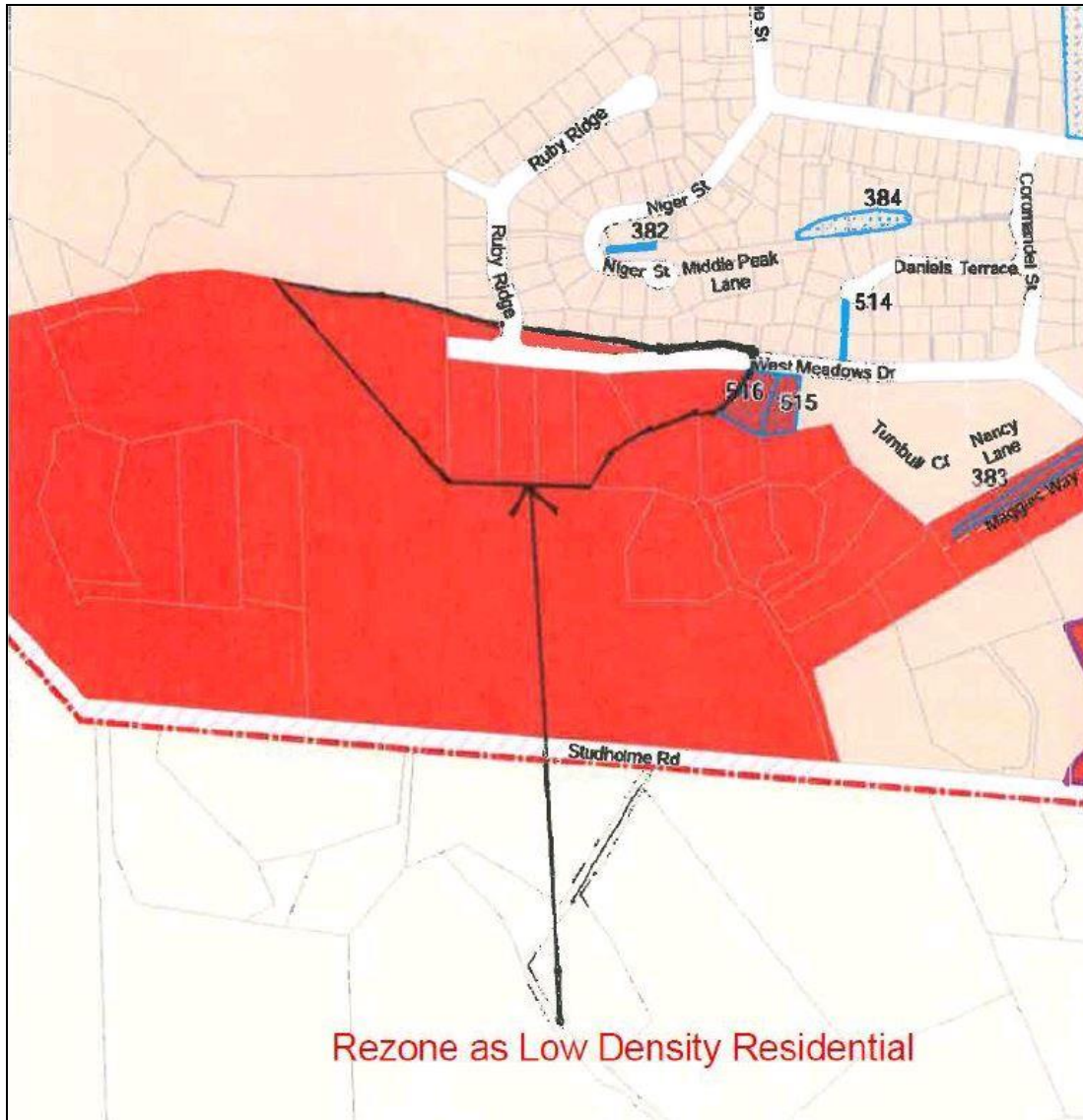


Figure 2. Excerpt of Willowridge Developments Ltd (249) submission.

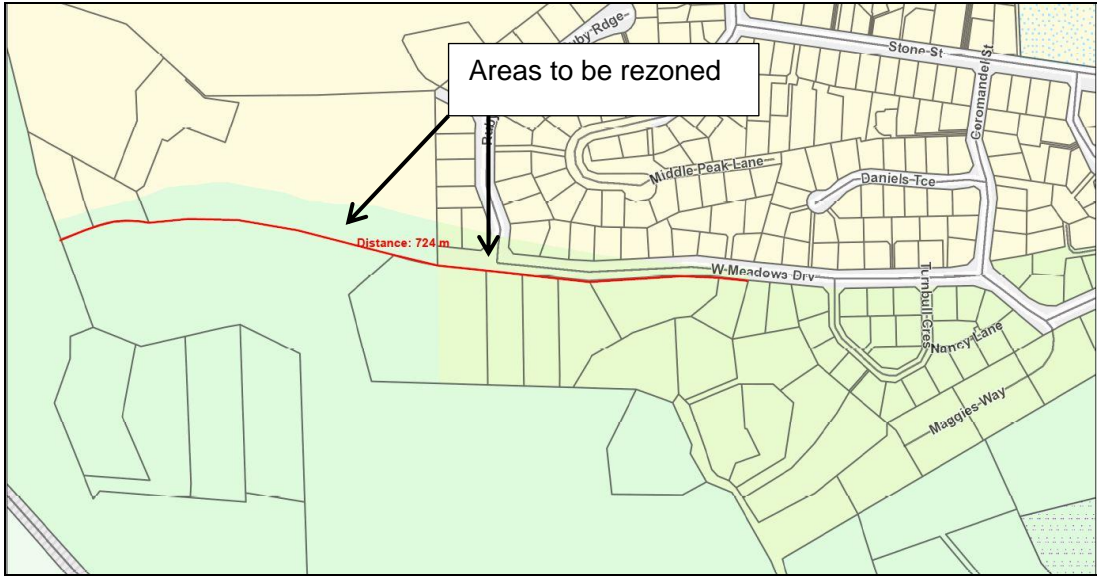


Figure 3. Excerpt of Blennerhassett and Anderson submission (335) illustrating the area sought to be rezoned to LDRZ (being the light green and dark green colours (Operative Rural Lifestyle and Rural Residential Planning Map colours) located north of red line).

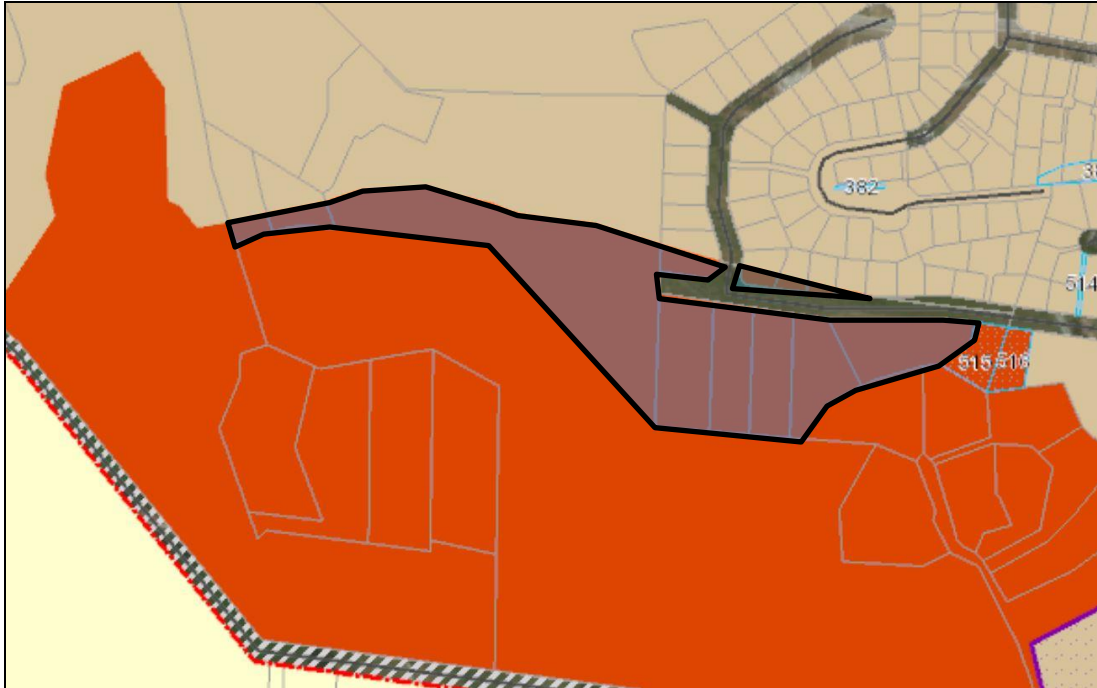


Figure 4. Planning Map 23: Area recommended to be rezoned from LLR to LDRZ (shaded purple with black outline).

9. SCURR HEIGHTS AND KIRIMOKO AREAS

Wanaka Central Developments (326)

- 9.1 Having further reconsidered this submission after taking questions from the Panel, I consider that rezoning the portion of this site not affected by the BRA could have positive effects in terms of providing a choice of housing, efficiency in terms of land use and infrastructure, and consolidating growth centrally within Wanaka near schools and amenities.
- 9.2 Excluding the area identified as a BRA on Planning Map 20, the LDR yield could be in the order of 95 residential units at a density of 450m², and the MDRZ could provide 172 residential units.
- 9.3 In my Group 1A EIC at paragraph 4.59 I recommended rejecting the submission because I considered the residential character exhibited by the existing Kirimoko subdivision is appropriate and considered that denser development nearer the edge of the suburban area was inappropriate. Having reconsidered, I do not have a strong view, and I consider that because the site is undeveloped there is an opportunity for a good quality development, rather than incremental infill, or potential incompatible densities of infill undertaken in a relatively new low density residential area.
- 9.4 In coming to this view I have considered the further submissions of Noel Williams (1018), Crescent Investments Limited (1311), and Kirimoko Park Residents Association (1326) who oppose the submission, and in particular the evidence and appearance of Scott Edgar for Crescent Investments Limited (1311) and Kirimoko Park Residents Association (1326). I consider that the MDRZ provisions in the PDP will ensure the development of a greenfield area of land, such as this, will have appropriate urban design outcomes, and would not compromise the amenity values of surrounding residential areas.
- 9.5 A section 32AA evaluation is included in **Appendix 9**.

9.6 The area recommended for MDRZ zoning is illustrated in **Figure 5** below.

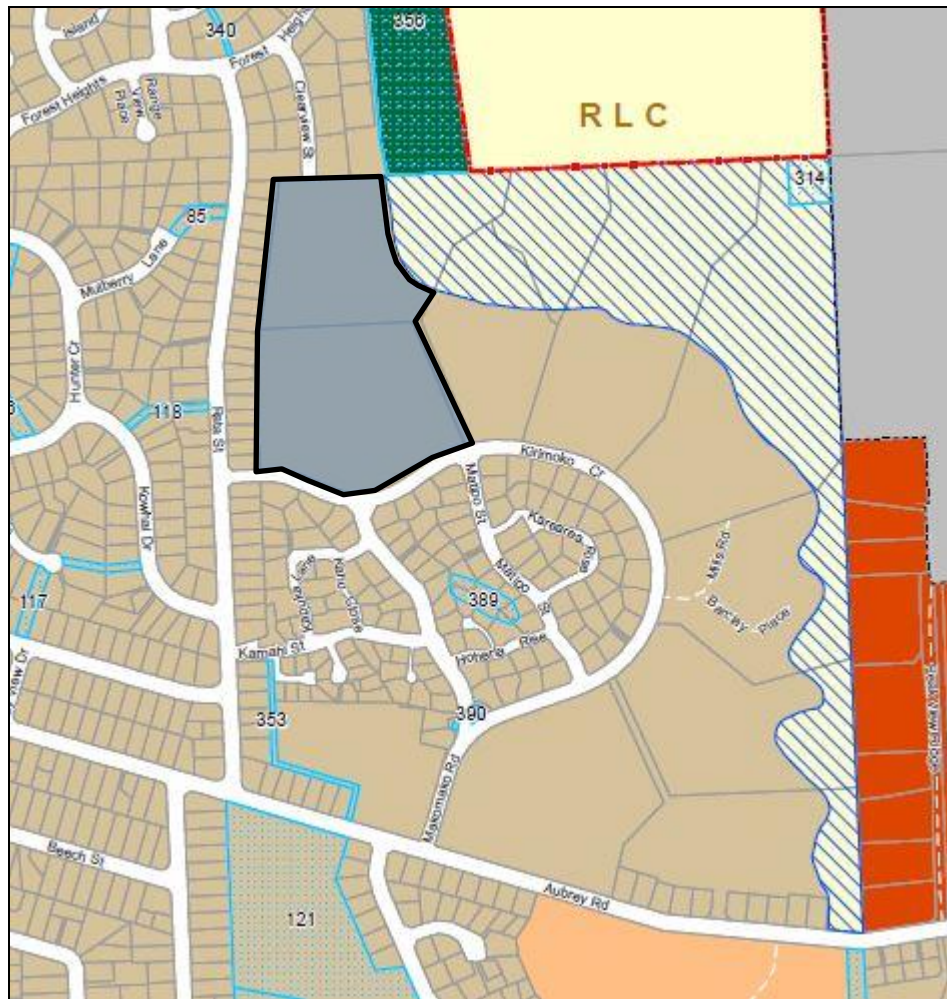


Figure 5. Planning Map 20: Area recommended to be rezoned from LDRZ to MDRZ is highlighted blue with black outline. Note it is not recommended to remove or rezone the area covered by the notified Kirimoko BRA, which is shown as Rural Zone, yellow with blue diagonal lines.

10. ALAN CUTLER (110)

10.1 The Panel asked me during at the hearing to provide a more thorough assessment to that part of Mr Cutler's submission (110.18) seeking that the MDRZ on the southern side of the Wanaka CBD be extended further along the old lake terrace.¹⁸

18 The part of Mr Cutler's submission opposing the zoning of Scurr Heights as MDRZ is addressed in my Group 1 Wanaka and Lake Hāwea urban EIC.

10.2 **Figure 6** below is an annotated webmap image of the notified PDP zoning and the area I infer Mr Cutler's is referring to. This is land notified as LDR.

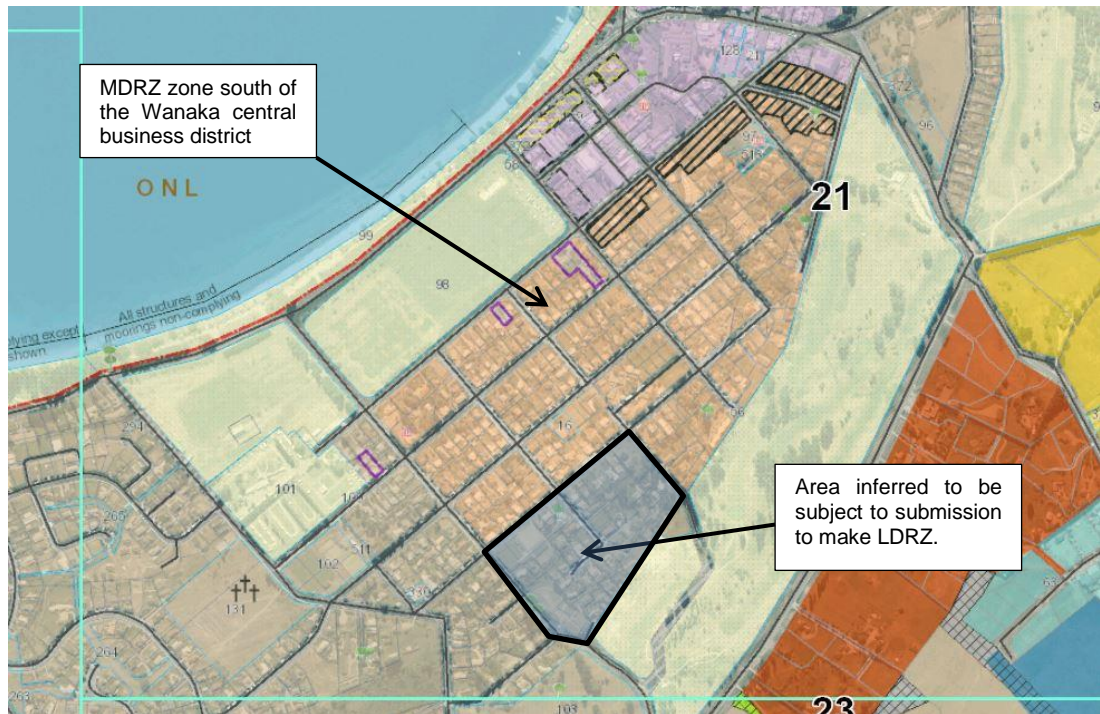


Figure 6. Annotated webmap image of the PDP planning maps showing the Wanaka Town Centre zone (purple), Medium Density Residential Zone (Apricot colour) and the blue colour is the area inferred to be subject to Mr Cutler's submission.

10.3 I consider that more evidence from the submitter would be required to justify that a MDRZ is more appropriate in this area than LDR. I note Mr Cutler also opposes the Scurr heights MDRZ as notified, because he states in his submission that it is divorced from the CBD and removed from existing commercial and business zones, and is also surrounded by well-established LDR development.

10.4 I accept that the area identified by Mr Cutler would be contiguous with the notified MDRZ, however I consider that this area is becoming more marginal in terms of location in the context of Wanaka but I am not swayed that it should be rezoned to MDRZ. I consider that LDRZ zoning is more appropriate at this location and I maintain my original recommendation that this part of Mr Cutler's submission be rejected.

11. CARDRONA VALLEY ROAD BLOCK

11.1 Having considered the evidence from Orchard Road Holdings (91) and the Gordon Family Trust (395) and questions from the Hearings Panel I have investigated the extent to which a structure plan could or should be applied over this land, illustrated below:

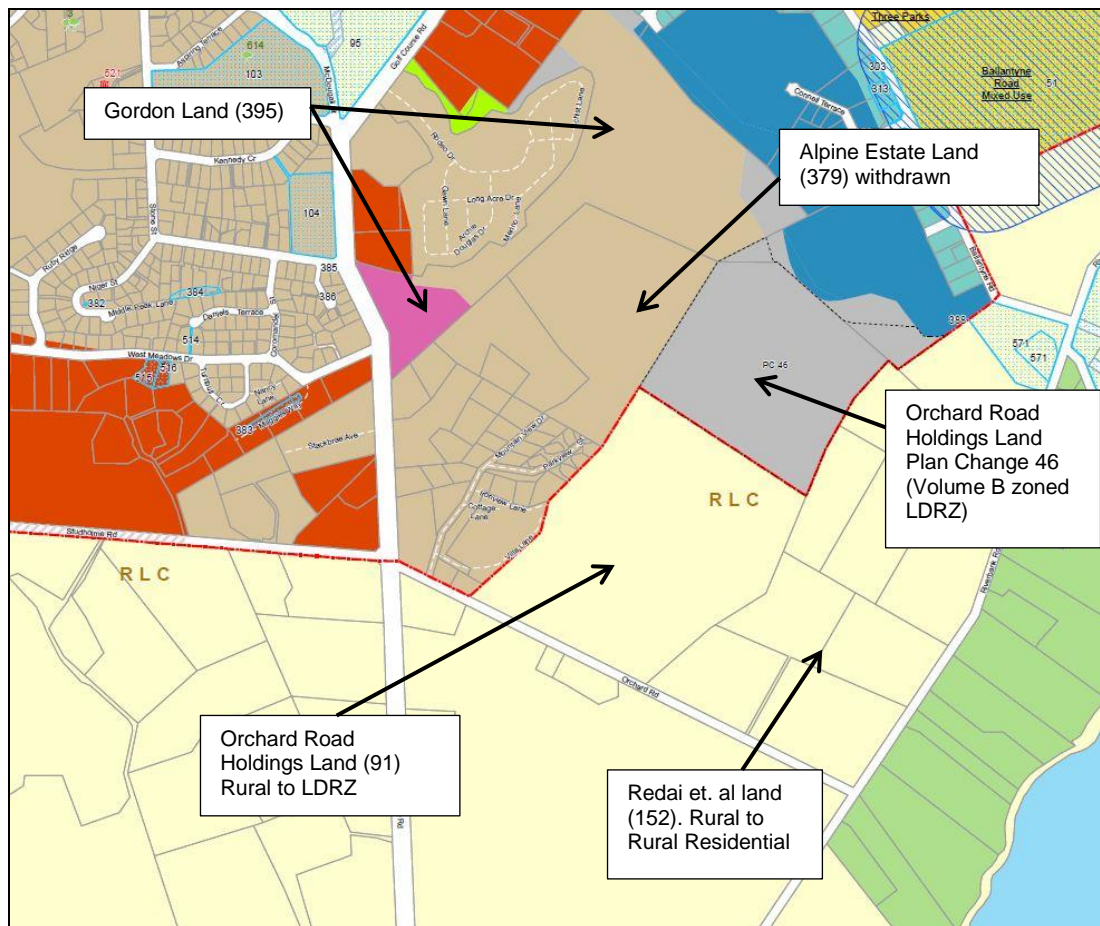


Figure 7. Excerpt of PDP Planning Map 23 with respective submission areas identified.

11.2 Alpine Estate Ltd (379) have withdrawn their submission. The submission of the Trustees of the Gordon Family Trust (395) is not considered to provide scope for a structure plan to be inserted into the PDP over all of their land holdings. Although the Trust's submission included an illustration with a road layout, the relief sought was specific in that it sought a rezoning of land located off Golf Course Road from LDRZ to MDRZ (ie the pink area in **Figure 7**), and rezoning Industrial B Zone land, which is not accepted to be within scope of Stage 1 of the PDP (and is not shown on **Figure 7**).

- 11.3** The rezoning of the land adjacent to the corner of Golf Course Road and Cardrona Valley Road from LDRZ to MDRZ is supported by myself and the respective Council expert witnesses and I have no further comments on that matter.
- 11.4** Therefore, the only site that is considered to have scope for a structure plan in this area is that associated with the submission of Orchard Road Holdings Ltd (91), to rezone a 24 ha area of land from notified Rural Zone to LDRZ. This submission was initially assessed in my Group 2 EIC. The submitter did not file any evidence, however appeared at the hearing and advised the Panel that they were supportive of structure plans in this area.
- 11.5** I note that in my EIC I stated the yield could be in the order of 632 LDRZ allotments, which I have identified as being incorrect. The 632 allotments were calculated on the basis of the entire 39.12 ha site, including the 'Volume B' land, which is zoned LDRZ in the ODP and was subject to Plan Change 46 at the time the PDP was notified. The corrected yield of the 24 ha area notified with a Rural Zone in the PDP that is subject to the submission, is approximately 360 allotments.
- 11.6** The overall figure of 632, including the PC 46 land, is however useful in the context of the potential traffic generation and infrastructure servicing of the entire land.
- 11.7** The reasons for not supporting the ORHL submission in my Group 2 EIC were associated with a lack of certainty over traffic access and generation effects and infrastructure servicing. I consider that it would be appropriate to rezone this land from Rural to LDRZ on the basis it is accompanied by a structure plan that provides certainty over the key road layout, showing connections to Cardrona Valley Road and internal boundaries, and there is recognition in the policy framework that developing the land is contingent upon the site being able to be serviced and it should not be expected that servicing is readily available at the current time.

- 11.8** Ms Banks has provided input to the structure plan and while she is satisfied that only one road access onto Cardrona Valley Road is necessary, this is on the basis that there are ample connections internally to the Gordon Land and Alpine Estate land. While I do not consider the Council has scope to apply a structure plan over the Gordon Land because the submission does not provide scope, and the Alpine Estate land because the submission has been withdrawn, the structure plan for the ORHL land could show connections to these areas, and the Volume B land that adjoins the rezone area immediately to the north. I recommend the structure plan should show two accesses onto Orchard Road and internal connections, with the policy framework reflecting that one access onto Orchard Road is acceptable provided there are internal connections to distribute traffic flows.
- 11.9** The recommended structure plan therefore shows two accesses onto Cardrona Valley Road, however it is recommended that the supporting policy framework emphasises that only one access can be supported on the basis that there are connections internally to distribute traffic through this area.
- 11.10** Ms Mellsop recommended that if the rezoning went ahead, a landscape buffer should be imposed along the boundary of the new LDRZ to protect the rural amenity of land zoned rural, south of Orchard Road. Ms Mellsop confirms that a 15 metre wide strip that is shown as a BRA overlay on the planning maps and also functions as a landscape strip on the structure plan would suffice and these are integrated with the structure plan and recommended provisions. Mounding is not considered necessary by myself or Ms Mellsop.
- 11.11** It is important to emphasise that neither Ms Mellsop or I consider that full screening of these buildings is necessary, nor is it the reason for the recommended landscape strip and BRA. A setback and landscape treatment between the adjoining Rural Zone and Orchard Road will ensure there is provision for a considered and integrated transition from the rural area to urban Wanaka upon arrival to the town from the south west.

- 11.12** The landscape strip and BRA will also provide an opportunity for a walking and cycling trail and for this to connect with the open space buffer of the PC 46 land to the north. I also consider that the policy framework should encourage a single ownership / allotment of the landscaped strip to discourage fragmentation of the planting through multiple land owners.
- 11.13** On the basis of the above I recommend the ORHL land is rezoned from Rural to LDRZ, with a consequential change to the UGB in the Planning maps and the figure within the Strategic Urban Growth Chapter. A recommended revised Subdivision Chapter including a structure plan, objectives and provisions are contained in **Appendix 6**. A s32AA evaluation is contained in **Appendix 9**. An annotated Planning Map is illustrated in **Figure 7a** below:

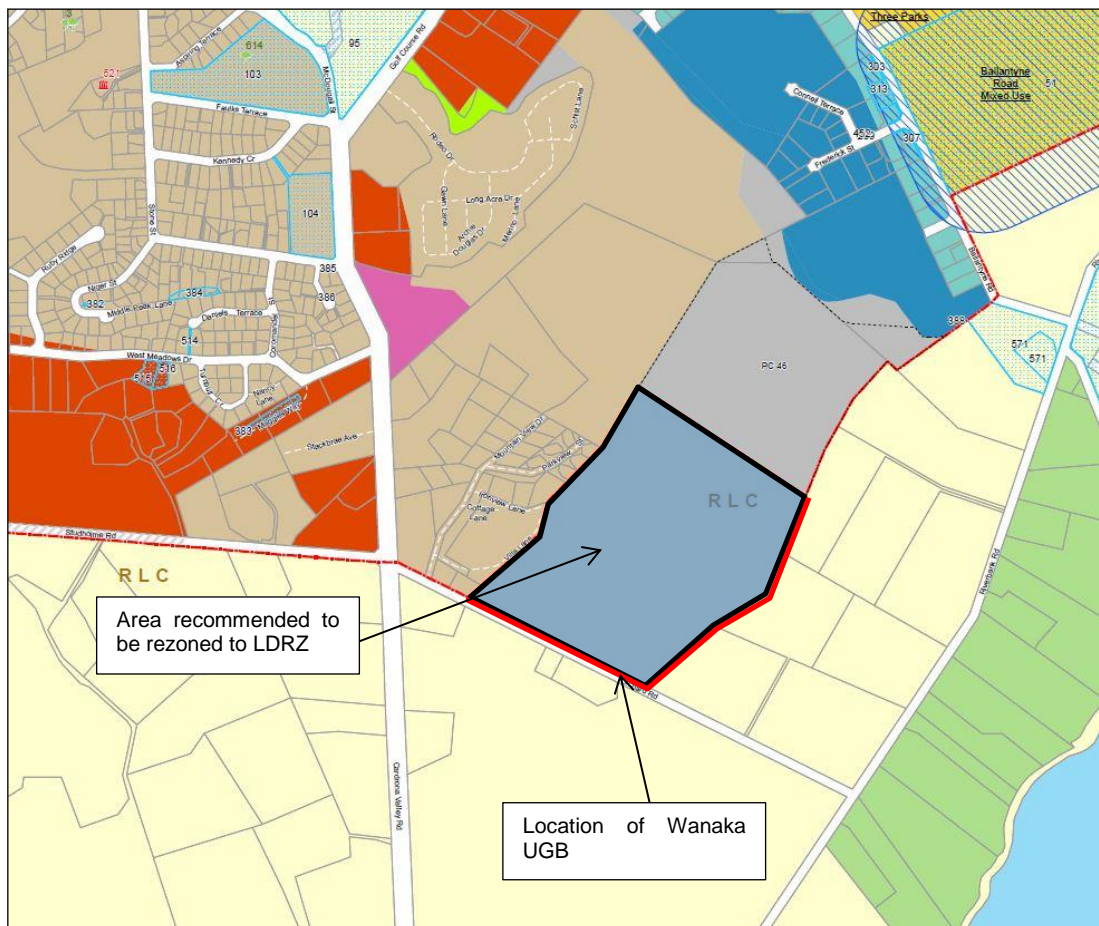


Figure 7a. Excerpt of PDP Planning Map 23 illustrating the area recommended to be rezoned from Rural to LDRZ *Black outline with blue shading), with the Wanaka UGB to be modified (bold red line).

12. TERRANOVA PLACE – SHANE JOPSON, CHRISTOPHER JOPSON, JACQUELINE MOREAU (287)

12.1 I have reviewed the additional information supplied by Mr White for the submitters relating to the easement for the private driveway. I have no further comment and maintain that this submission should be accepted. **Figure 7b** below illustrates the area recommended to be rezoned.

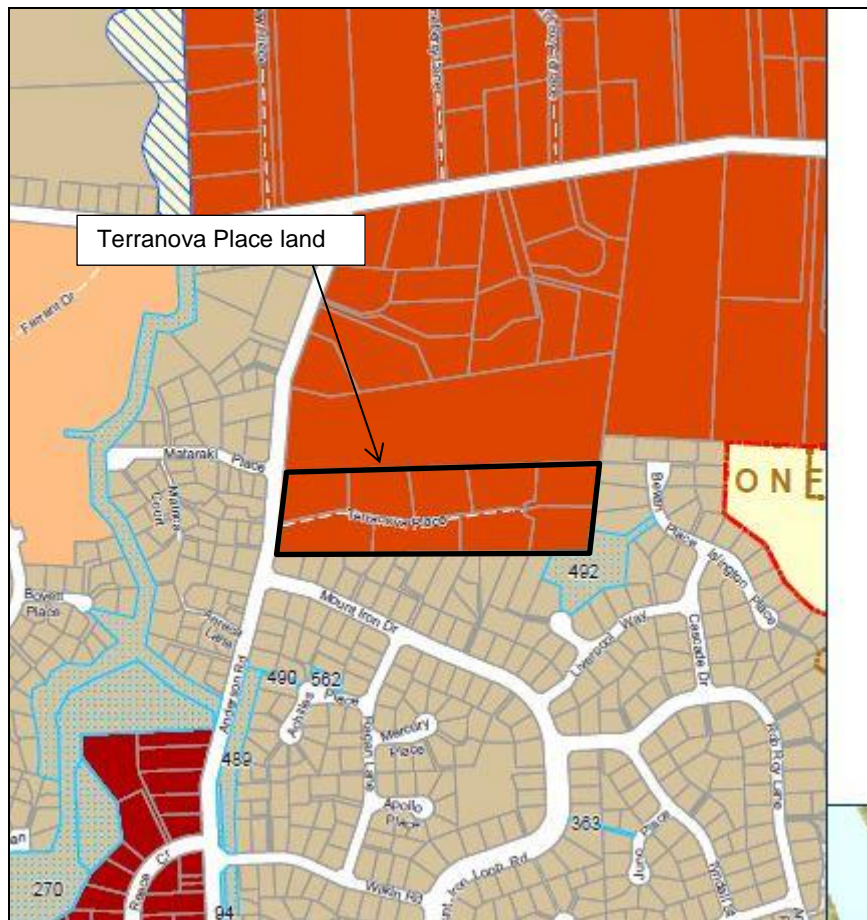


Figure 7b. Planning Map 20 illustrating the land subject to the Terranova Place submissions to be rezoned from LLRA to LRDZ (outlined in Black).

13. DAN FOUNTAIN 33/448

13.1 I have considered the matters raised by Mr Suddaby for Dan Fountain during his appearance at the hearing and have no further comments. I agree that this land should be zoned LDRZ, rather than Rural Lifestyle as zoned in the ODP.

14. LAKE HĀWEA REZONING SUBMISSIONS

- 14.1 This section addresses the submissions to rezone the Rural Residential Zone to a range of higher densities as sought by the submitters set out in **Figure 8**, which also shows the general location of the sites.

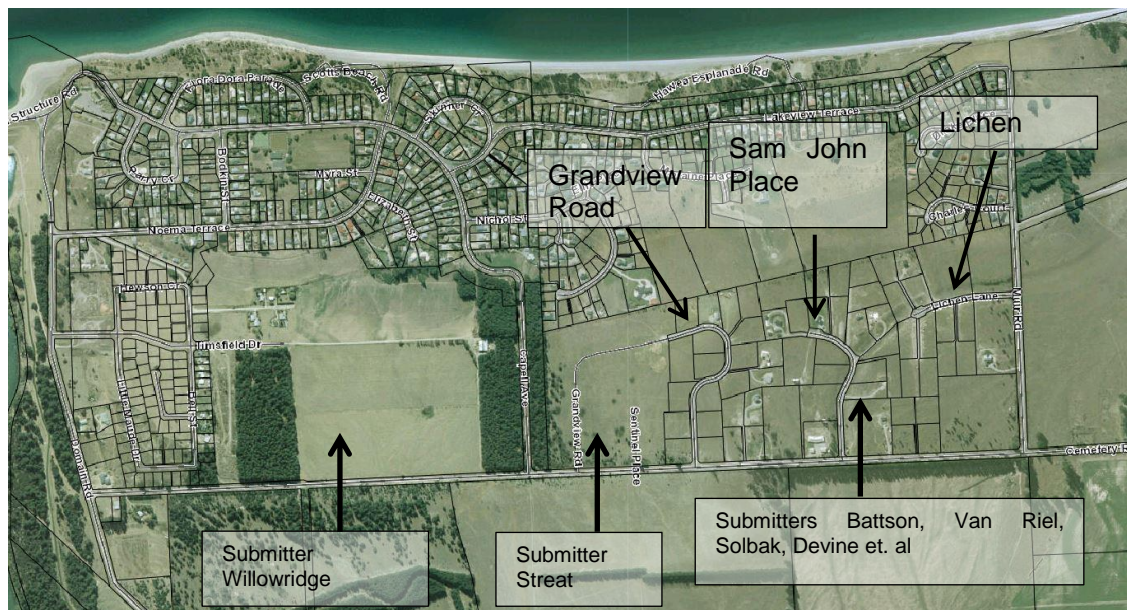


Figure 8. Aerial photograph of Lake Hāwea Township with the general location of the respective submissions identified.

Grandview Road, Sam John Place and Lichen Lane Zoning/Density

- 14.2 At her appearance at the hearing on 25 May 2017, submitter Jude Battson (460) appeared to confirm to the Panel that her preferred density was 2000m², while further submitter Darryll Rogers (1138) advised the Panel he would accept 2000m² but preferred a higher density in the order of 600m². This is on the basis that the smaller the allotments, the more opportunities for social and economic wellbeing through the provision of affordable housing.
- 14.3 Mr Rogers further submission was made in support of Jude Battson's submission and Joel Van Riel's submission (462) who sought 2000m² lots.
- 14.4 Submitters Jan Solbak (816) and Laura Solbak (119) seek that the notified PDP Rural Residential Zoning and 4000m² minimum

allotment size is retained. Similarly, the Hāwea Community Association (**HCA**) (771) seek that the Rural Residential Zoning is retained. These submitters appeared at the Rural Residential Zone chapter hearing as part of Hearing Stream 2, on 5 May 2015.

- 14.5** Robert Devine (272) and Gaye Robertson (188) also seek that the notified PDP Rural Residential Zoning is retained. These submitters have not appeared at a hearing.
- 14.6** All the submitters who appeared at the Rural Hearing were also served notice of the evidence and hearing for this mapping/rezoning hearing stream.
- 14.7** To reiterate, Ms Banks and Mr Glasner support a density to 2000m², but not any higher for reasons given in their respective EIC. My analysis in Part 11.10 of my EIC also opposed the rezonings on the basis that infill would have detrimental effects on amenity that would be potentially worsened by the established pattern of subdivision design and lack of connections between Lichen Lane, Sam John Place and Grandview Road. I acknowledge that Grandview Road is intended to connect with the adjoining land to the east, as shown on the approved resource consent plan on Page 72 of my Group 1A EIC.
- 14.8** Overall, I consider that these effects would be moderate and would be outweighed by the opportunity for modest infill densities and opportunities for the landowners to provide for their social and economic wellbeing through the opportunity to subdivide.
- 14.9** I note that due to the degree of infill on each of the three roads, at some point the Council would want these to be vested with the Council and the roading upgraded if necessary. I acknowledge from Ms Battson's submission that this road formation has already occurred, however the vesting of a private road with the Council could require agreement from all persons with an interest in the private road, and this might stall the ability for subdivision to be realised. Notwithstanding this, if this matter arose I do not consider it to be the Council's issue to resolve, and it should not have a bearing on what is the most appropriate zoning from a resource management

perspective because it can be overcome, consistent with my recommendation of the rezoning of Terranova Place in Wanaka (287).

- 14.10** While there is currently no Transport Chapter in the PDP, when it is notified in a later Stage, it is expected that it will address any potential adverse effects associated with the proliferation of crossing places onto Cemetery Road, which has a posted speed limit of 100 km/hr. It might be the case that some future lots will need to obtain right of ways onto an internal road.
- 14.11** Mr Rogers has not provided any qualified evidence that a higher density than 2000m² is feasible or appropriate in terms of amenity, urban design, traffic or water infrastructure. I recommend his submission for higher densities is rejected.
- 14.12** On the basis of the above, I recommend the submission of Jude Battson (460) and Joel Van Riel (462) are accepted to allow a density of 2000m² for the Rural Residential Zoned land at Lichen Lane, Sam John Place and Grandview Road.
- 14.13** I do not consider any other type of zone, such as Large Lot Residential B is appropriate, because this zone is tailored for suburban areas within the UGB. Acknowledging my previous comments about extensive bespoke alterations of the zone framework to address individual developments being inefficient and undesirable, I therefore reluctantly recommend a bespoke rule is added to the Rural Residential Zone Chapter 22 for these sites. In order to alleviate the concerns of the submitters who oppose any changes to the density or zoning, I recommend the bulk and location rules remain as for the wider zone framework which allows sites of 4000m².
- 14.14** **Figure 9** below provided below that shows the area of Rural Residential Zone that should have a density of 2000m² minimum allotment size. A recommended revised Subdivision and Rural Residential Zone Chapters is attached at **Appendix 6** that reflects

these recommended changes. A s32AA evaluation is included in **Appendix 9**.

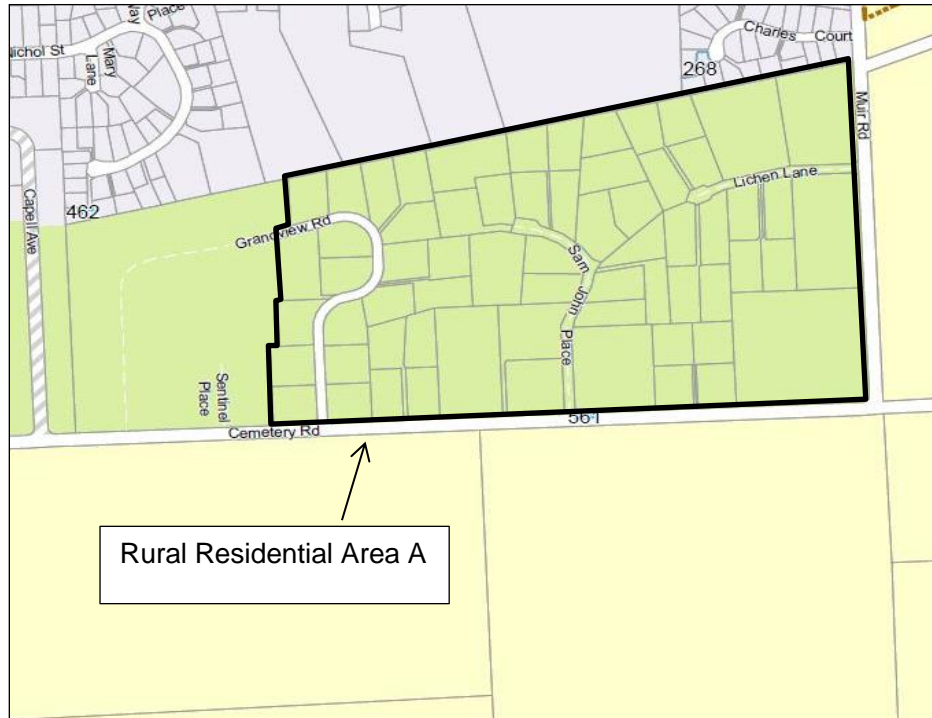


Figure 9. Planning Map 17: Portion of Rural Residential Zone that is recommended to have a minimum residential allotment size and density of 2000m² (bold black outline).

Street Developments (697)

14.15 I maintain my opinion that the most appropriate outcome is to retain the Rural Residential Zoning. I consider that there is insufficient evidence before the Panel that demonstrates that the Operative Township Zone provisions 'fit' into the PDP, nor that they meet the various statutory tests including giving effect to the Strategic objectives.. I also consider that the submitter can give effect to resource consent RM050083 to achieve a similar outcome to that sought by this rezoning.

14.16 While neither myself nor the Panel have jurisdiction to facilitate a variation, I suggest that as part of the review of the Township Zones, that this Rural Residential Zoned land located on the northern side of Cemetery Road is investigated for potential rezoning to the Township Zone.

- 14.17** I also remain of the opinion that the most appropriate zoning of the land on the southern side of Cemetery Road is Rural Residential.

Willowridge Developments Limited (249)

- 14.18** I maintain my recommendation as stated on Page 76 of my Group 1A EIC that there is not adequate certainty about the provision of water infrastructure or about traffic generation effects from rezoning the Rural Residential Zone land to support LDRZ. The submitter has not provided any evidence that these matters can be addressed. I also do not support rezoning this land to Township Zone for the reasons set out above including that the submitter has not offered any evidence on the efficacy of the Operative Township provisions and how it will give effect to Chapters 3-6 of the PDP, nor how it would fit within the PDP structure or a similar version of the provisions.

- 14.19** I do however agree with the submitter in so far that a spilt zoning is not ideal, and this land could be better suited for an urban/township type density. I also agree that the existing minimum allotment size of 800m² for the Township Zone at Lake Hāwea should be reconsidered in light of the likelihood of the land being able to be serviced with reticulated water and wastewater and the overall efficiency of smaller allotments toward an area of 600m².

- 14.20** I consider that there is merit in considering the zoning of this land as part of further stages of the review, at the same time as the review of the operative Township Zone. I accept that neither myself nor the Panel can guarantee this and that it is the discretion of a Council resolution of what land to include for a variation.

GROUP 2 WANAKA URBAN FRINGE

15. ALLENBY FARMS (502)

- 15.1** I have considered the evidence tabled at the hearing, and the supplementary evidence received after the hearing comprising legal submissions, landscape evidence by Mr Baxter, ecology evidence by

Mr Lloyd and planning evidence by Mr White all dated 14 June 2017. I have read the three sets of legal submissions (Part 1 dated 5 April, Part 2 dated 25 May, and Part 3 dated 14 June). I have given particular regard to the revised 'Mt Iron Park Rural Lifestyle Zone' provisions and maps attached to Mr White's evidence.

- 15.2** I note that Ms Mellsop has not changed her opinion and considers that from a landscape perspective, the activities enabled by the proposed rezoning would be inappropriate development on the Mt Iron ONF because of their likely adverse effects.
- 15.3** I prefer Ms Mellsop's opinion over that of Mr Baxter, who I consider has overstated the effectiveness of the potential for mitigation to address these effects and reliance on future buildings and landscaping being undertaken in the most sympathetic manner possible, rather than as enabled by the zone provisions. Consistent with my discussion above on the practical implementation of the Rural Lifestyle Zone, I consider that Mr Baxter is placing too high an expectation that the Rural Lifestyle Zone and the requested provisions will achieve the same outcomes as a resource consent under the Rural Zone provisions, where the principle activity and any further activities would be subject to a substantially more stringent framework of assessment.
- 15.4** The Council's ecologist Mr Davis has addressed matters relating to Dr Lloyd's evidence relating to the extent of rabbit control on Mt Iron in his Reply evidence. I refer to Mr Davis's evidence on this matter.

Environmental Compensation

- 15.5** I also consider that collectively, the advisors for Allenby Farms have overstated the protection afforded by the proposed Mt Iron Park provisions. This includes their evidence that the PDP provisions would provide adequate protection of the areas identified as the 'alternative' SNA and that these do not mitigate or compensate for either the adverse ecological effects of the requested development on the notified SNA area, or the landscape effects associated with

further residential activity and associated accesses on this part of Mt Iron.

- 15.6** In particular, at paragraphs 7 and 18 of Mr White's Supplementary Evidence, he states that the PDP provisions only require passive vegetation protection. I accept that the PDP provisions do not require persons to plant indigenous vegetation or actively reduce pests as would be required by the Mt Iron Park provisions. However, I do not consider the 'active management' proposed by the submitter to be beneficial over the alternative of not clearing the indigenous vegetation within SNA E 18C, and abiding by the enforcement order of the Court to replace and regenerate the Kanuka that was cleared in breach of the PDP rules.
- 15.7** It is proposed to remove most of the SNA E 18 C overlay where it is affected by the structure plan and the majority of the proposed Rural Lifestyle Zone. As set out on the Plan 'X' of the Mr White's EIC, an area of 12.9 ha would be removed from SNA E 18 C, while 3.1 ha would be retained as SNA and be located within the Rural Lifestyle Zone.¹⁹ The remaining part of SNA E 18 C located to the south of the proposed Rural Lifestyle Zone comprising 32ha would be retained as an SNA and also form part of the 'Protection Area' on the structure plan. In addition, it is sought to add 18.3ha to the SNA located further to the south.
- 15.8** I consider that the PDP Indigenous Vegetation and Biodiversity Chapter and Rural Zone provides appropriate protection of these areas because while no vegetation removal outside building platforms or construction of the accesses would be permitted, Rule 33.5.7 restricts the clearance of indigenous vegetation within an SNA in any 5 year period to 50m².
- 15.9** In addition, Mr Davis considers that SNA E 18 C is significant in terms of ecological values, and the Court in the enforcement proceedings²⁰ found that the indigenous vegetation of SNA E18 C is significant. Mr Lloyd advised the Panel during his appearance at the hearing on 31

¹⁹ Acknowledging that 1.1 ha of Kanuka would be directly removed as a result of the building platforms and access. As illustrated the 'Kanuka Retention & removal' Plan attached as Appendix A to Mr White's EIC.

²⁰ *Queenstown Lakes District Council v Allenby Farms Limited* [2017 NZDC 3251, at 16.

May that the indigenous vegetation is '*important* but not significant'. Therefore, I consider that an applicant could struggle to obtain consent for clearance of SNA E 18 C, and the PDP provisions as they stand provide suitable protection and management.

Alternative SNA

- 15.10** The area to the south promoted by the submitter as an alternate SNA is considered by both Dr Lloyd and Mr Davis to have significant ecological values and therefore the evidence before this Panel is that it qualifies as an SNA.
- 15.11** Permitted clearance of indigenous vegetation outside an SNA that is located within a chronically or acutely threatened land environment as defined by the Land Environments of New Zealand (Rule 33.5.3), or where the vegetation is greater than 4m in height (Rule 33.5.2), are restricted to 500m². No removal of a plant identified as a threatened species listed in schedule 33.7 is permitted (Rule 33.5.6).
- 15.12** The alternative SNA area is located within an Acutely Threatened Land Environment as defined by the Land Environments of New Zealand, and there are threatened plants within this area (as listed in Schedule 33.7) because the threatened plant *Pimelea sericeovillosa* var *pulvinaris* (At Risk-Declining) is identified in Dr Lloyds EIC as being present within the identified alternate SNA area.
- 15.13** Therefore, under the PDP the permitted baseline over this 18.3ha area is the removal of 500m² kanuka, and none for any threatened plant identified in Schedule 33.7. I consider that on the basis of these points, resource consent for removal of indigenous vegetation in the alternate SNA area as it stands under the PDP could be difficult to obtain because it is significant and therefore, unlikely to satisfy Objectives 33.2.1 to 33.2.3 of the PDP.
- 15.14** Therefore, I disagree, from a planning perspective with paragraph 6 of Dr Lloyd's summary statement where he states "*The alternate SNA would achieve significantly greater protection of ecological values than the notified Mt Iron SNA C*". I consider that the low permitted

baseline for indigenous vegetation clearance on this site, and the objectives of Chapter 33 provide adequate protection and the above illustrates the submitter's advisors overreliance on the proposed ecological protection to overcome the significant adverse effects on the landscape values of Mt Iron from the proposed rezoning.

Little Mt Iron

- 15.15** The additional area referred to as 'Little Mt Iron', which has been purchased by the submitter, comprises two notified SNAs (E18D 1 and E 18 D 2) comprising a total area of 3.92 ha. Although it was not part of the original submission, the submitter proposes that this area is part of the overall compensation package and provided for as a 'Protection Area' comprising 24.1 ha in area on the structure plan and provisions.
- 15.16** As set out above the permitted removal of indigenous vegetation within the SNAs is limited to 50m². In addition permitted removal of other indigenous vegetation not identified as a threatened plant on this site is limited to 500m².
- 15.17** Dr Lloyd has not assessed this area, with the exception of paragraph 10 of his summary statement, which states it '*provides excellent potential for indigenous forest restoration*'.
- 15.18** I also consider that the submitter has overstated the benefits of this land being included in the proposal because the pest control (at least in terms of wilding exotic trees) and indigenous vegetation regeneration of this land is already required as a compensatory measure associated with the granting of a building platform through resource consent RM130177 (K & P Martin).
- 15.19** Conditions of that resource consent related to land management and indigenous vegetation by way of compensation include:
8. *All of the site outside the permitted curtilage area shall be managed as ecological restoration or pastoral land to be*

maintained by way of grazing. No exotic planting shall be permitted within the curtilage area and on this pastoral land.

9. *Fencing shall be limited to traditional post and wire fencing only. Fencing may include pest control measures in accordance with the Ecological Management Plan approved under Condition 10.*

10. *An Ecological Management Plan for the on-going maintenance of the site shall be submitted to Council for approval within six months of the issue date of this resource consent. The purpose of the Ecological Management Plan shall be to implement ecological restoration, ensure reduction in fire safety hazard, implement wilding pine control and pest management strategies to enhance the natural character and amenity values of the site. All works approved within the Ecological Management Plan shall be implemented within timeframes specified therein, with the intention that work shall commence within one year or less from the completion of the construction of the dwelling approved by this resource consent (except where specified in condition 10a). The Ecological Management Plan shall set out methods and timeframes of work in order to:*
 - *Remove or kill all wilding exotic trees and broom from the site and prevent any future infestation.*
 - *Foster the continued growth of native vegetation within the site such that the area of the site currently covered in this vegetation (as shown on Appendix 3 of the Landscape and Visual Effects Assessment Report prepared by Vivian+Espie and dated 29 March 2013) incrementally increases in density, biodiversity and self-sustainability of native species over time. This shall include the on-going management of plant and animal pests.*
 - *Maintain the area of the site currently covered in exotic grass (as shown on Appendix 3 of the Landscape and Visual Effects Assessment Report prepared by Vivian+Espie and dated 29 March 2013) either in its current state with no further invasion by exotic species, or in a state that incrementally converts it to a native vegetation cover over time.*

- *Plant the areas shown as "proposed vegetation" on the Local Site Plan and Landscape/Section Key and Earthworks Plan prepared by Eliska Lewis Architects Ltd and dated 27/11/2013 so as to create areas of dense, self-sustaining kanuka-dominated native bush. The only exception to this is the areas marked 'A' adjoining the dwelling planted which shall be planted in native species of low flammability. All planting shall be completed within one year or less from the completion of the construction of the dwelling approved by this resource consent.*

As a minimum, the submitted Ecological Management Plan shall include details of the following:

- *Methods proposed to remove or kill existing wilding exotic trees and broom from the site and to exclude these from the site on a year to year basis.*
- *Methods to exclude and/or suitably manage pests within the site in order to foster growth of native vegetation within the site.*
- *A programme or list of maintenance work to be carried out on a year to year basis on order to bring about the goals set out above. Details of species and plant densities to be planted in the areas of "proposed vegetation".*

10a. The consent holder shall remove or kill existing wilding exotic trees and broom from on the site, in accordance with the approved methods contained in the Ecological Management Plan approved under condition 10, prior to the construction of the dwelling to the satisfaction of the Council's Parks & Reserves Officer (Forestry).

15.20 The consent holder at the time submitted an Environmental Management Plan²¹ to the Council on 15 August 2015. The plan was prepared by Wildlands Consultants. A copy of the resource consent and the Environmental Management Plan are attached at **Appendix 4**.

²¹ Environmental Management Plan for Little Mt Iron, Aubrey Road, Central Otago. Wildlands Contract Report 3722 August 2015.

- 15.21** The submitter has included this land ('Little Mt Iron') as part of the offering of ecological restoration and pest species management. However, the resource consent or building have not been relinquished and the conditions of Resource Consent RM130177 remain live and must be adhered to.
- 15.22** I consider that the proposed protection area on this property, and in particular the 'revegetation area' adjacent to SNA E 18 D 1, could be reasonably expected to be implemented by the conditions of RM130177. For the above reasons I consider that the inclusion of this site as part of the compensation package has little merit and is potentially double dipping in so far as advancing environmental compensation measures associated with the significant adverse effects of requesting the proposed provisions that would facilitate housing on Mt Iron.

Recreation Benefits

- 15.23** With regard to the positive effects of the formal provision of existing and new walking tracks, I also address this matter with the context of Reply Minute question 5 (ix):

What is the Council's view on the incremental recreational value of the additional tracks on Mount Iron and Little Mount Iron being proffered by Allenby Farms Limited as part of its proposal, over and above the existing legal easements?

- 15.24** As set out in my rebuttal evidence, recreation benefits are a positive component of the proposed rezoning however, these should not come at the cost of landscape and ecological degradation of the Mt Iron ONF.

- 15.25** The Panel also asked the following question relevant to Allenby Farms submission at 5 (xii) of the Reply Minute:

Please provide clarification of the reference in Mr Barr's report 2 at 12.33 to the modified McLean scale – what is it, what degree of protection on it is appropriate for Mt Iron and why?

15.26 The Modified McLean Rabbit Infestation Scale (2012) is used to measure the degree of rabbit infestation. The scale itself does not offer protection but provides a measure to inform whether rabbit infestation has reached a point where active management is required. For example the Otago Regional Council use the Modified McLean Scale as part of its functions under its Regional Pest Management Strategy 2009.²²

15.27 When rabbit numbers on a property exceed a measure of 3²³ on the Modified McLean Scale (2012), occupiers are responsible for putting into action a rabbit control programme. A copy of the Otago Regional Council's rabbit control methods advice and the Modified McLean Scale 2012 is attached at **Appendix 5**.

15.28 Question 5 (xx) of the Panel's Reply Minute is:

What is the Council's view regarding the implications of a major Three Parks entrance off the State Highway on the maintenance of the building restriction area currently in place on Allenby Farms land adjacent to the State Highway? Please identify on an appropriate plan where that intersection will be located.

15.29 The access from the Three Parks Special Zone onto State Highway 84 will be at the location provided on the approved outline development plan resource consent RM140354, shown in my Group 2 EIC, and repeated below.

22 Rabbit-control methods:
<http://www.orc.govt.nz/Documents/Content/Information%20Services/Pests/Rabbits/ORC%20RABBIT%20LEAFLET%20WEB.pdf>

23 Which states: *Pellet heaps spaced 10m or more apart on average. Odd rabbits seen; sign and some pellet heaps showing up.*

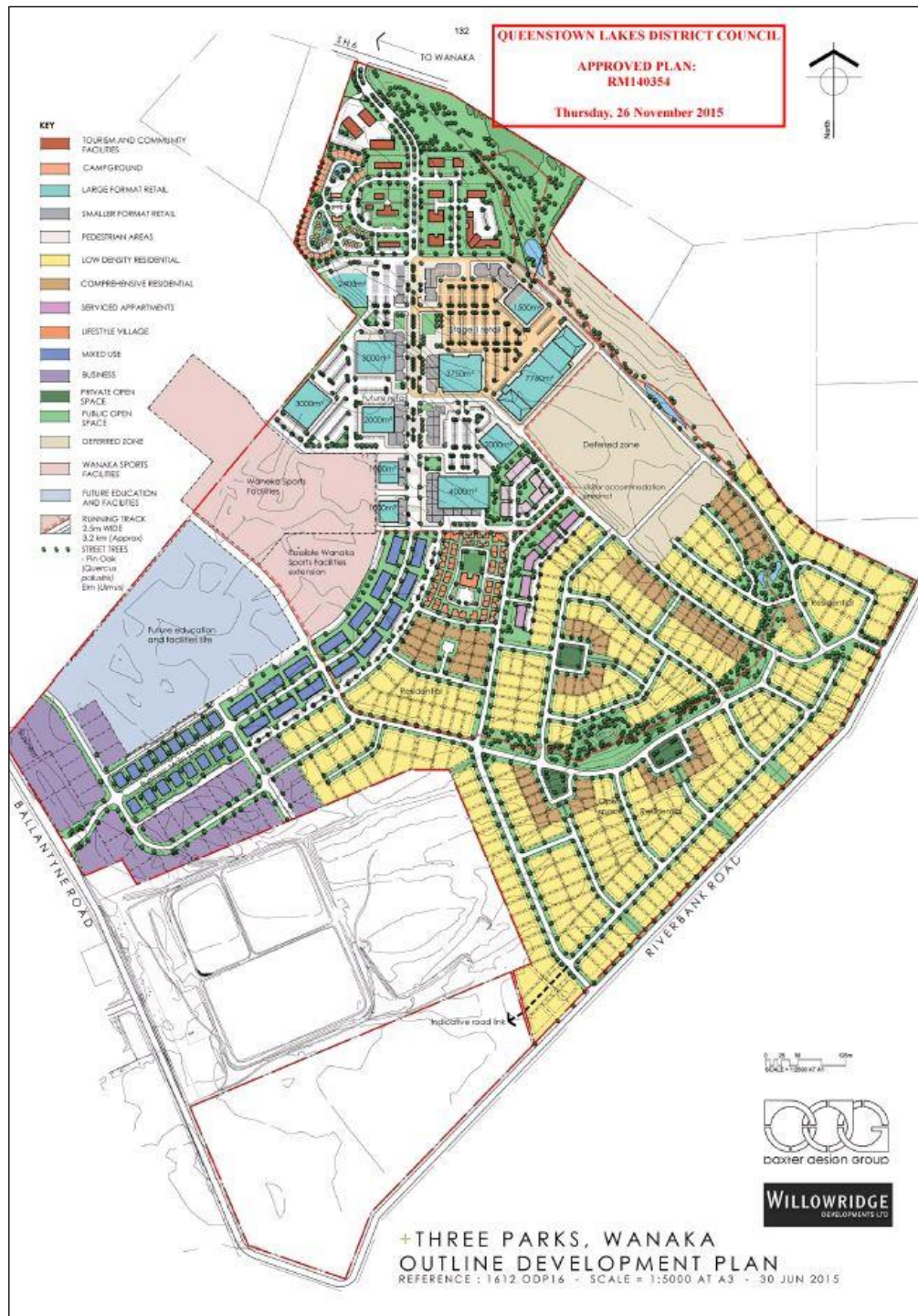


Figure 9. Approved Outline Development Plan RM140354 of the Three Parks development. Note that the plan incorrectly identifies the access onto SH6, whereas the correct name of the highway, is SH84, this was a typographical error.

15.30 The location of this access onto SH84, relative to the notified BRA located on Allenby Farms land is approximately opposite the car park to the Mt Iron Walkway, indicated on the annotated planning map below:

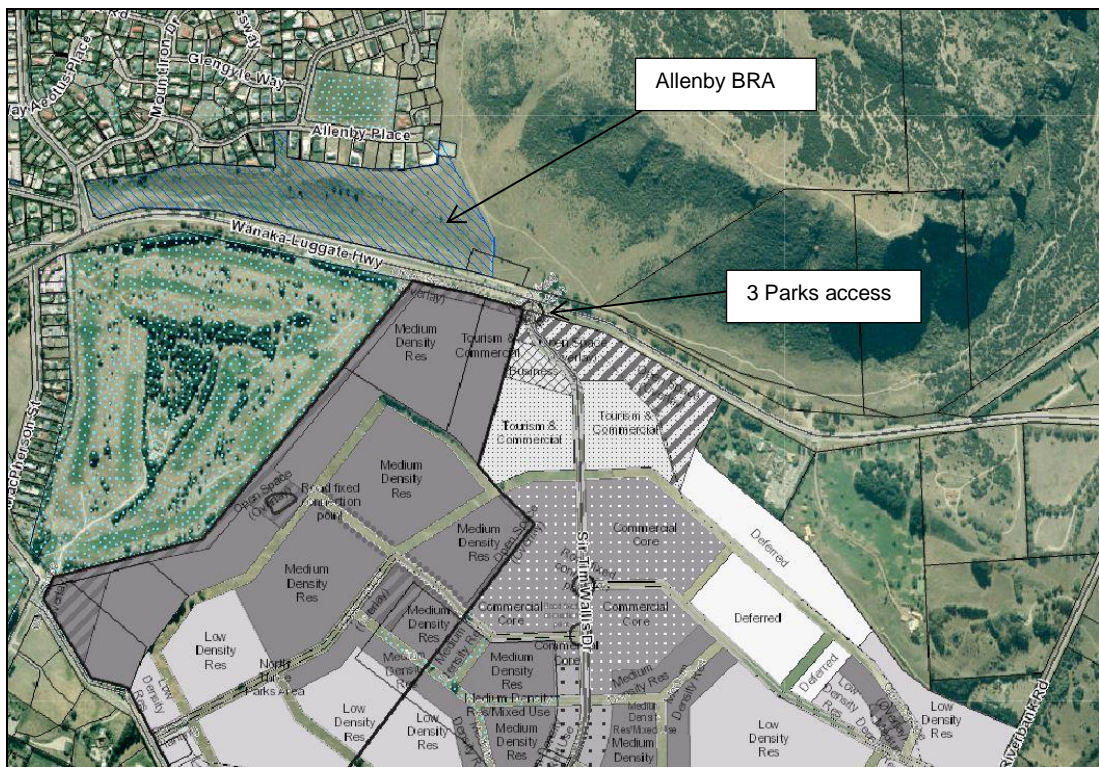


Figure 10. QLDC webmap image illustrating the Three Parks Special Zone Structure Plan (which is consistent with the approved ODP in RM 140354) illustrating the location of the access onto SH84 and the Allenby Farms BRA. Note that the Three parks land adjacent to the access is provided for as 'Open Space', and the Tourism and Medium Density Zones in the north Three Parks area has a setback buffer.

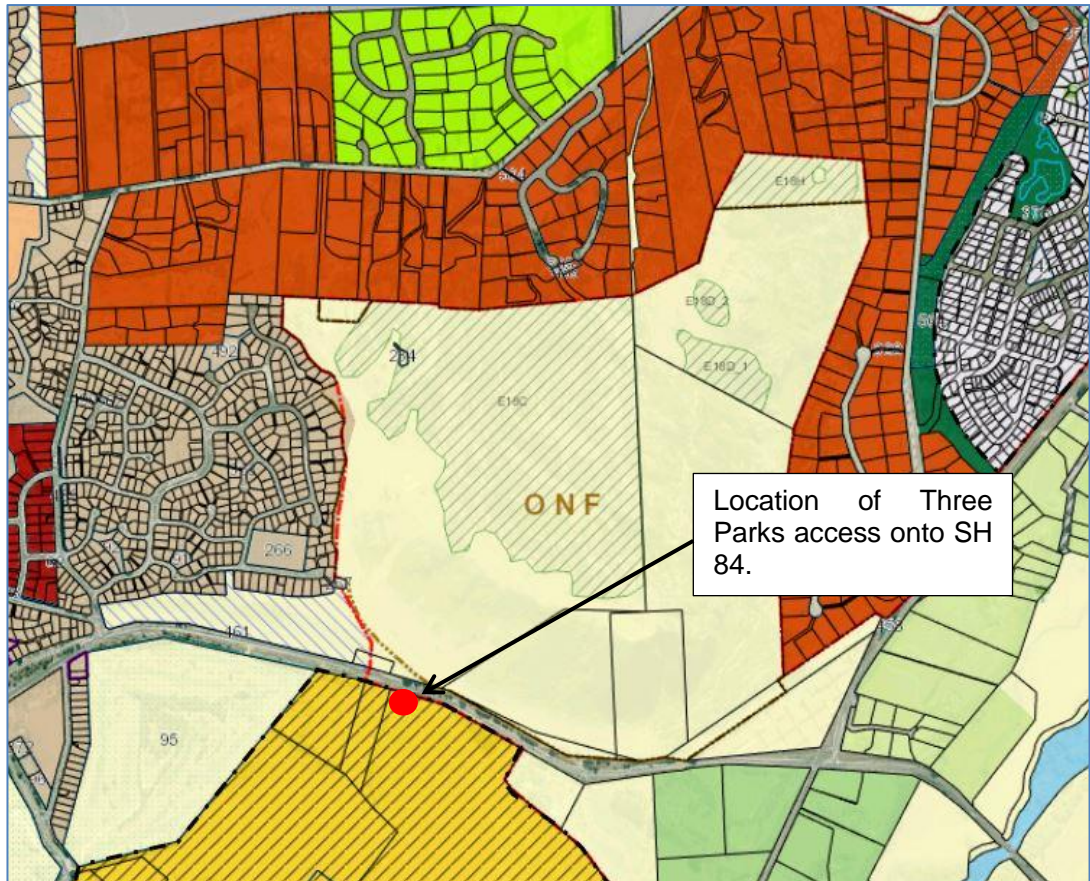


Figure 11. Excerpt of PDP Planning Map 21 illustrating the Three Parks Special Zone (Yellow area) and the location of the access onto SH 84 (red circle).

15.31 I do not consider an intersection at this location, even a major intersection by Wanaka standards, reduces the need for an effective BRA on the Allenby Farms Land. The access is located to the east of the BRA. I also understand that the central issue of the access currently being negotiated between the Council, the NZTA and Willowridge Developments Limited is not the location, but the formation and design as to whether the access is to be a T intersection or a roundabout.

16. MICHAEL BERESFORD (149)

16.1 I have considered the evidence of the witnesses for Mr Beresford given orally at the Hearing on 14 June 2017, and also considered the evidence provided after the hearing by Mr Chrystal, primarily the 'Post-Hearing revised Provisions' which include the comprehensive development plan and matters of control for forestry.

- 16.2** I agree with Ms Mellsop in her Reply Evidence that the proposed comprehensive development plan is not an appropriate replacement management regime, because the scale and intensity of Large Lot Residential B activity within and adjacent to the ONL would have significant adverse effects.
- 16.3** Another way of approaching this is to consider what the appropriate outcome should be, if there is an entitlement to achieving urban development on this site on the basis of Section 8 (Treaty of Waitangi) matters (which I do not necessarily accept), and if this prevails over the purpose of the PDP to give effect to sections 6 (b) and 7 (c) and (f) as part of meeting the purpose of the Act. Even if those conditions are satisfied, in terms of the resultant adverse effects, I consider that the proposed urban development significantly overreaches any benefits associated with recognising any redress afforded to Mr Beresford in terms of the Ngāi Tahu Claims Settlement Act.
- 16.4** I consider that the scale and intensity of the activities sought cannot give effect to the proposed objective in Mr Chrystal's Post-Hearing Revised Provisions, because landscape values would not be maintained.
- 16.5** As stated in my rebuttal, and on the advice of Ms Mellsop, any rezoning to Low Density Residential should be limited to the approximately 4ha area as identified in Ms Mellsop's rebuttal. While substantially smaller than the area requested by Mr Beresford, I consider that this area would provide for substantial potential for economic positive effects²⁴ to the submitter, while maintaining the ability for the PDP to achieve the protection of the ONL as required by section 6(b), and having appropriate regard to the amenity and quality of the Rural Landscape area of the site as required by sections 7 (c) and (f).
- 16.6** I maintain my rebuttal evidence and recommend the rezoning is rejected.

24 4 ha of LDRZ land could yield in the order of 60 dwellings.

16.7 The Panel has queried through Question 5 (xxvii) of the Reply Minute:

What is the Council's view on the appropriate activity status for clearing of the trees currently on Sticky Forest, assuming Mr Beresford's submission provides scope for a revised rule.

16.8 In absence of the impending National Environmental Standard on Plantation Forestry (which is expected to be gazetted in mid 2017),²⁵ I consider a restricted discretionary activity status is appropriate for the purposes of harvesting to clear the forest for future urban development, with matters of discretion to include erosion and sediment management, earthworks including the location of haul roads and skid platforms, noise, hours of operation, traffic generation, access, consideration of both temporary and permanent impacts on trails and recreation, and damage to roading and other infrastructure.

16.9 Restricted discretionary activity status would be more appropriate than controlled activity status due to the location of nearby urban development, the prominence of the site from the Wanaka urban area, and the use of the site for recreational purposes, such that a proposal should take these matters into account. I consider the Council should be able to retain the discretion to decline consent for sub-standard applications in order to manage the potential adverse effects associated with forestry harvesting.

16.10 I therefore disagree with Mr Chrystal that a controlled activity status for forestry is appropriate, and as set out above I prefer a restricted discretionary activity status and additional matters of discretion to those suggested by Mr Chrystal who offered:

- (a) *the location of haul roads and skid platforms;*
- (b) *erosion and sediment control;*
- (c) *heavy vehicle access routes; and*
- (d) *hours of operation.*

²⁵ <http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standard-for-plantation-forestry/>

16.11 The Panel has queried through Question 5 (xxviii) of the Reply Minute:

What reasonable use can be made of the Sticky Forest Block the subject of Mr Beresford's submission under the PDP provisions the Council supports?

16.12 I understand that in the Legal Reply, Council's position is that the "reasonable use" ground in s85 does not require Council to put forward a list of options for use of the land and prove that these are reasonable. Rather, the test in s85 is whether the proposed zoning serves the statutory purpose. However, I have considered what reasonable uses could be made of the land under my recommended zoning.

16.13 Irrespective of whether or not the harvesting of the forest would qualify under existing use rights, the fact is that the forest is established and it is reasonable to expect that the ongoing maintenance and eventual harvesting is not fanciful. Harvesting, while requiring resource consent, could not be considered unreasonable on the basis that the environmental management measures identified above were appropriately undertaken.

16.14 In addition, farming, including viticulture or horticulture, is a permitted farming activity. It is not unreasonable to expect applications for industrial activities associated with a winery, or restaurants and retail activities associated with a winery or the productive use of the land. This is reflected in the PDP by these having a discretionary activity status where associated with a winery (Rules 21.4.15 and 21.417), instead of non-complying for activities that are not likely to have either a functional need or close affiliation with the primary land use.

16.15 I maintain my opinion stated in paragraphs 11.39 to 11.47 of my Rebuttal Evidence that the retention of the site as Rural and the need to apply for a resource consent for commercial activities that have a functional requirement to be located in the Plantation are worthy of consideration. There are numerous examples throughout the District of restaurants and cafés located in the Rural Zone, including where

these are associated with both commercial and informal recreation activities.

16.16 A recent example in Wanaka is resource consent RM150361 (Inderlee Limited). This consented the establishment of a Salmon fishing and recreation centre, including a restaurant/café, manager's residence, carparking and two fishing ponds, adjacent to the Cardrona River, near the SH6 Cardrona River Bridge. I consider that this illustrates that a wide range of activities are contemplated under the Rural Zone and the submission site is well placed in terms of its location to Wanaka, to leverage some type of future land use that utilises the land and could have additional commercial opportunities.

16.17 The fact that the site presents complexities in terms of road access is not unique to the rezoning request, nor do I consider the responsibility for this situation for this to fall on the Council, as stated in Parts 11.70 to 11.73 of my Rebuttal Evidence.

16.18 Question 5 (i) of the Reply Minute was:

What is the Council's view on references in the PDP and/or the Operative or Proposed Regional Policy Statement to Ngāi tahu /Kai Tahu? Specifically, should such provisions be read as referring to any member or members of the iwi or to Ngāi tahu /Kai Tahu collectively as represented by Te Rūnanga o Ngāi tahu under the Te Runanga o Ngai Tahu Act 1996.

16.19 Kai Tahu should be read as referring to members of the iwi, not Te Rūnanga o Ngāi Tahu (TRoNT). The local runanga are the tangata whenua, meanwhile TRoNT is an iwi authority and exists due to the Te Rūnanga o Ngāi Tahu Act 1996.

16.20 The PDP Tangata Whenua Chapter **[CB 5]** at Part 5.2 states that TRoNT is an iwi authority made of 18 papatipu rūnanga, and that these were established as a result of the Te Rūnanga o Ngāi tahu Act 1996.

16.21 The Proposed Regional Policy Statement for Otago 2015 (PRPS) **[CB 34]** clearly distinguishes between Kai Tahu, referred to takata

whenua of the Otago region, and TRoNT are referred to as the iwi authority.²⁶ The PRPS also states that Kai Tahu Ki Otago Ltd is the first point of contact and that they '*facilitate kai tahu engagement in resource management processes.*'²⁷

16.22 Therefore I consider that the PRPS references to Kai Tahu should be read as meaning members of the iwi and not TRoNT, where the PRPS means TRoNT the distinction is purposeful.

16.23 The operative Regional Policy Statement 1998²⁸ (**ORPS**) also distinguishes between Kai Tahu (referred to as 'Otago's iwi' at page 4) and TRoNT as the iwi authority. The RPS defines 'iwi authority' as '*The authority which represented an iwi and which is recognised by that iwi as having authority to do so*'²⁹.

16.24 The ORPS also states that '*Te runanga o Ngai Tahu is direct by and receives guidance from the member runanga, it does not replace the kaitiaki function of the individual runanga*'³⁰. Therefore, I also consider that in the ORPS references to Kai Tahu should also be read as meaning any members of the iwi, not TRoNT.

17. HAWTHENDEN LTD (776)

Area A

17.1 I maintain my view that the most appropriate zoning for Area A (as identified by the submitter) is Rural. While it is not an ONL, the area is visually prominent from many vantage points in Wanaka and the RLC Assessment Matters in Part 21.7 of the PDP are the most appropriate method to ensure the optimal environmental outcome for this land, with regard to rural living and residential activity. I have not heard any information from the submitter's appearance at the hearing that changes my opinion.

26 Regional Policy Statement for Otago 2015. Decision version with appeals marked in 14 February 2017. Part A at 6.

27 Ibid.

28 Regional Policy Statement for Otago 1998.

29 Ibid at 224.

30 Ibid at 30.

- 17.2** I do not consider that development should be precluded at this location but as set out in my EIC and rebuttal the landscape assessment supporting the rezoning is taking an overly optimistic view that any resultant subdivision would be supported by a landscape assessment and design. Matters identified include avoiding prominence of vehicle accesses on the north facing areas (the majority of Area A), that the location of future building platforms would be in the most sympathetic location, and if mitigation is required from the Stoney Creek alluvial fan hazard, that these would not have any landscape impacts.
- 17.3** The Rural Lifestyle Zone does address such matters in the subdivision matters of discretion, as set out above in my response to the Reply Minute's general question 4 (xiii), however I consider that the Rural Landscape Classification Assessment Matters in Part 21.7 of the PDP set a more rigorous expectation that development will be designed so that it is as sympathetic as practicable.

Area B

- 17.4** I maintain my opinion that the most appropriate zone for Area B (as identified by the submitter) is Rural, as advised in both my and Ms Mellsop's rebuttal evidence, and therefore continue to recommend the submission is rejected. We both consider Rural Lifestyle Zoning is appropriate, however the submitter is pursuing a Rural Residential zone.
- 17.5** If the Panel do recommend accepting Area B for Rural Residential zoning, I suggest it is rezoned LLR A Zone (4000m²) and that the UGB is relocated around it. The overall density and environmental outcome between the Rural Residential Zone and Large Lot Residential A Zone are very similar and it would alleviate my concern with the proliferation of quasi-urban development outside the Wanaka UGB.
- 17.6** In addition, if this site is rezoned I recommend a similar policy framework as I have below for the Redai et al (152) submission land,

whereby any subdivision is required to show how it can accommodate future development at a LDRZ Density.

- 17.7 I note that Ms Banks no longer opposes the rezoning of Area B on the basis that Studholme Road is formed. I note that there remain outstanding matters relating to landscape, infrastructure and planning matters associated with the relationship of the development to the Wanaka UGB.

Area C

- 17.8 I maintain my recommendation as set out in Part 10 of my Group 2 EIC to rezone the land identified by the submitter as 'Area C' to Rural Lifestyle Zone. **Figure 9a** below illustrates both Area C and the 'Studholme Road Rural Lifestyle Zone' discussed below.

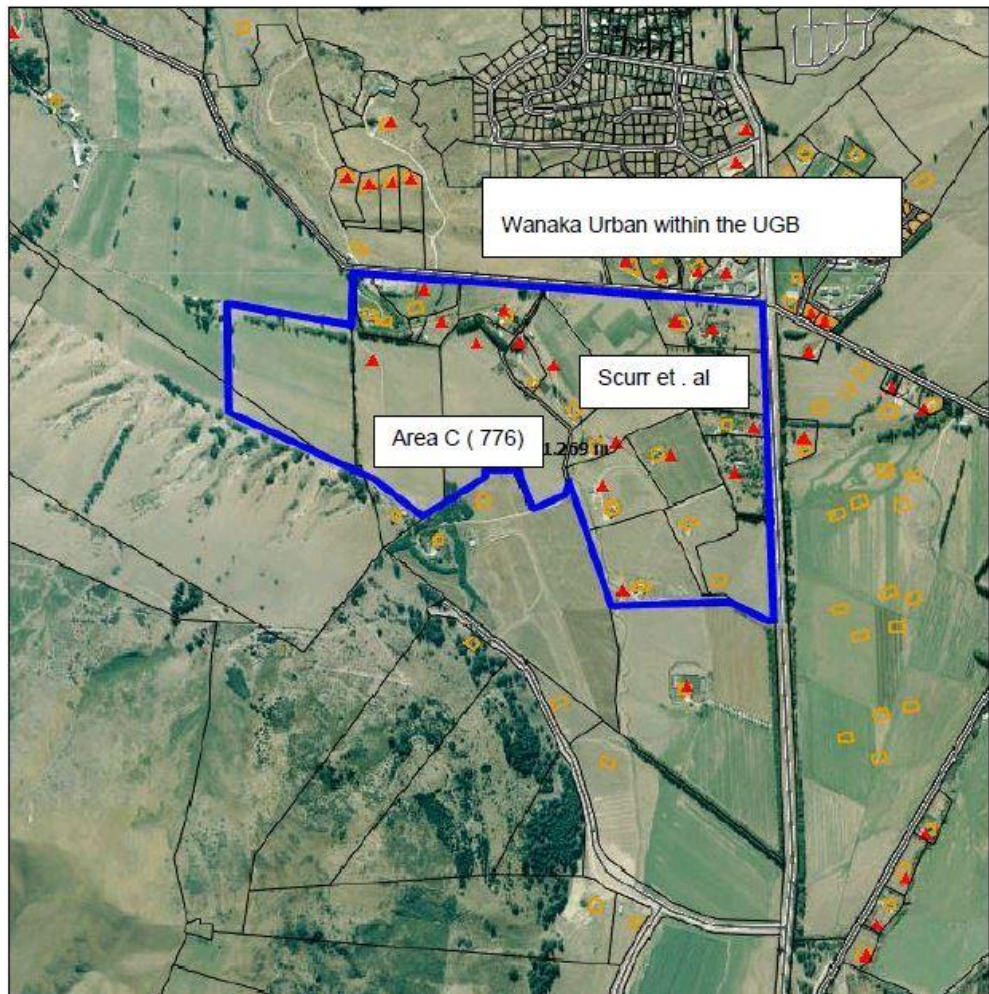


Figure 9a. Annotated aerial photograph of the Hawthenden (776) and Scurr et. al submissions where Rural Lifestyle zoning is recommended. It is also recommended that a 60m wide BRA is included along the Cardrona Valley Road boundary.

18. STUDHOLME ROAD RURAL LIFESTYLE ZONE SUBMISSIONS

18.1 Having considered Mr White's evidence and appearance at the hearing on 1 June 2017 and questions I received from the Panel, I maintain my opinion that the recommended Rural Lifestyle Zone with a BRA, with a 60m width, is the most appropriate zoning.

18.2 The site on the eastern side of Cardrona Valley Road is zoned Rural and has a resource consent for 19 residential lots with building platforms that is currently being given effect to (RM130165). The closest building platforms to the legal boundary of Cardrona Valley Road are approximately 120m. Therefore, the 60m recommended for the Rural Lifestyle Zone is in my view appropriate as a minimum set back from Cardrona Valley Road.

19. WILLOWRIDGE DEVELOPMENTS LTD (249)

19.1 I maintain my opinion set out in paragraphs 11.1 – 11.16 of my Group 2 EIC that the most appropriate zone is Rural and that the consented activity with Rural zoning is more appropriate than a blanket Industrial B zoning on this land, particularly given identified infrastructure constraints and lower intensity of the consented contractors yard, than what would be anticipated to occur under Industrial B zoning.

19.2 If the Panel do recommend accepting the submission I recommend that a structure plan is imposed that closely follows the mitigation conditions in that consent and that recommended for the Orchard Road Holdings Limited (**ORHL**) (91) submission, as well as the mitigation required under the Volume B Industrial B Zone and Low Density Residential Zone (15m wide landscape strip) to provide a suitable edge to the Wanaka UGB. Any structure plan and provision should also consider roading and intersection improvements at the Riverbank Road and Ballantyne Road intersection.

20. JACKIE REDAI AND OTHERS (152)

20.1 Having considered Mr Edgar's evidence, his appearance at the hearing on 1 June 2017 and questions from the Panel on this matter, I maintain my opinion that the most appropriate zoning is Rural.

20.2 Question 5 (xviii) of the Reply Minute is:

What is the Council's view on the proposal discussed with Mr Dippie of Willowridge Limited and with the representatives of the Redai et al group that future development of the currently Rural Zoned land west of Riverbank Road might appropriately be the subject of a structure plan process to guide the nature and timing of its future development? Would it be appropriate to consider a deferred zoning approach in conjunction with that option?

20.3 As set out above I recommend the ORHL submission is accepted on the basis there is a structure plan that achieves transport connections and landscape amenity benefits. While I do not recommend the submission of Redai et. al is accepted, if the Panel considers that it is appropriate to rezone this land to a density of 4000m², it is my suggestion, that this is located within the UGB and rezoned Large Lot Residential A (4000m² allotment sizes).

20.4 If the Panel accepts the submission I would also suggest that objectives and policies are included in the PDP Subdivision Chapter that require that for any future subdivision of the 'Redai et al' land, a plan is shown that shows how that current subdivision design can accommodate LDRZ development at some point in the future (i.e. around or after the year 2048).

20.5 While there are multiple owners over this land, I consider that the optimal outcomes and process would be for the first subdivision to include a plan for the entire area. While a subdivision can only cover the area subject to that particular subdivision application, I consider that a policy framework should be imposed that requires that subdivisions have regard to this matter and show that the specific development proposed would not undermine the viability for future effective urban subdivision.

- 20.6** I also note that as part of providing feedback to me on the potential structure plan and rezoning for the ORHL land (91), Ms Banks has suggested a roading connection is shown on the land to the east, being the Redai et al submission land. Because I am recommending this land is retained as Rural I do not consider this is necessary. If the Panel do accept that it is rezoned to either Rural Residential Zone or LLR A, then the structure plan on the ORHL land should also show a connection from this site into the Redai et al land.
- 20.7** Related to this matter, the NPSUDC requires that the Council will need to have produced a future development strategy by 31 December 2018. This strategy could either be in the District Plan or a plan prepared under the Local Government Act, similar to the Wanaka 2020 and 2007 Structure Plan processes.
- 20.8** I consider that this would be a more appropriate forum and process to consider future growth areas, for the land subject to these particular submissions.

21. RIVERBANK ROAD SUBMISSIONS

- 21.1** Question 5 (xv) of the Reply Minute is:

In relation to the properties currently zoned Rural Lifestyle immediately west of Riverbank Road, are there grounds to differentiate those properties from the Rural Lifestyle properties to the east of Riverbank Road, as regards the most appropriate zoning?

- 21.2** I take this question to be asking whether the Rural Lifestyle Zoning of the land to the west of Riverbank Road is appropriate because it appears less dense than the outcome of the same zoning to the east, because the housing on the western side of Riverbank Road has been consolidated to the top of the Cardrona River escarpment.
- 21.3** If so, my answer to the question is no. The application of the Rural Lifestyle Zone on the western side serves an important resource management purpose by maintaining a degree of open space and rural character as part of the entrance to Wanaka.

- 21.1** The Panel also asked me on behalf of Ms Mellsop during my appearance at the hearing whether the recommended rezoning of this land affects her view of the rezoning requests for the Rural Lifestyle Zoned land located between this site and Riverbank Road.
- 21.2** Ms Mellsop has advised that the recommended zoning of the Rural Zoned land to Large Lot Residential of the Ranch Royale submission would appear as part of the Three Parks development and that there is no need to reconsider the request to rezone the Riverbank Rural Lifestyle Zone submissions in light of this recommendation.
- 21.3** I also note that Ms Banks has confirmed in her Reply that she would not oppose the rezoning if modelling was undertaken. I note that there are landscape and planning reasons that mean this submission is not supported.

22. RANCH ROYALE (412)

- 22.1** Having considered the appearance of Mr White, and questions I received from the Panel, I maintain my opinion that the rezoning of this land to Large Lot Residential B is appropriate.
- 22.2** Figure 4 of my Rebuttal evidence illustrates the recommended location of a BRA to ensure buildings are inconspicuous from SH84. The thick green line is 8m lower than the upper portion of the terrace. The image below is an annotated planning map that shows the recommended zoning and extent of the BRA. This is consistent with the recommendation in my rebuttal.

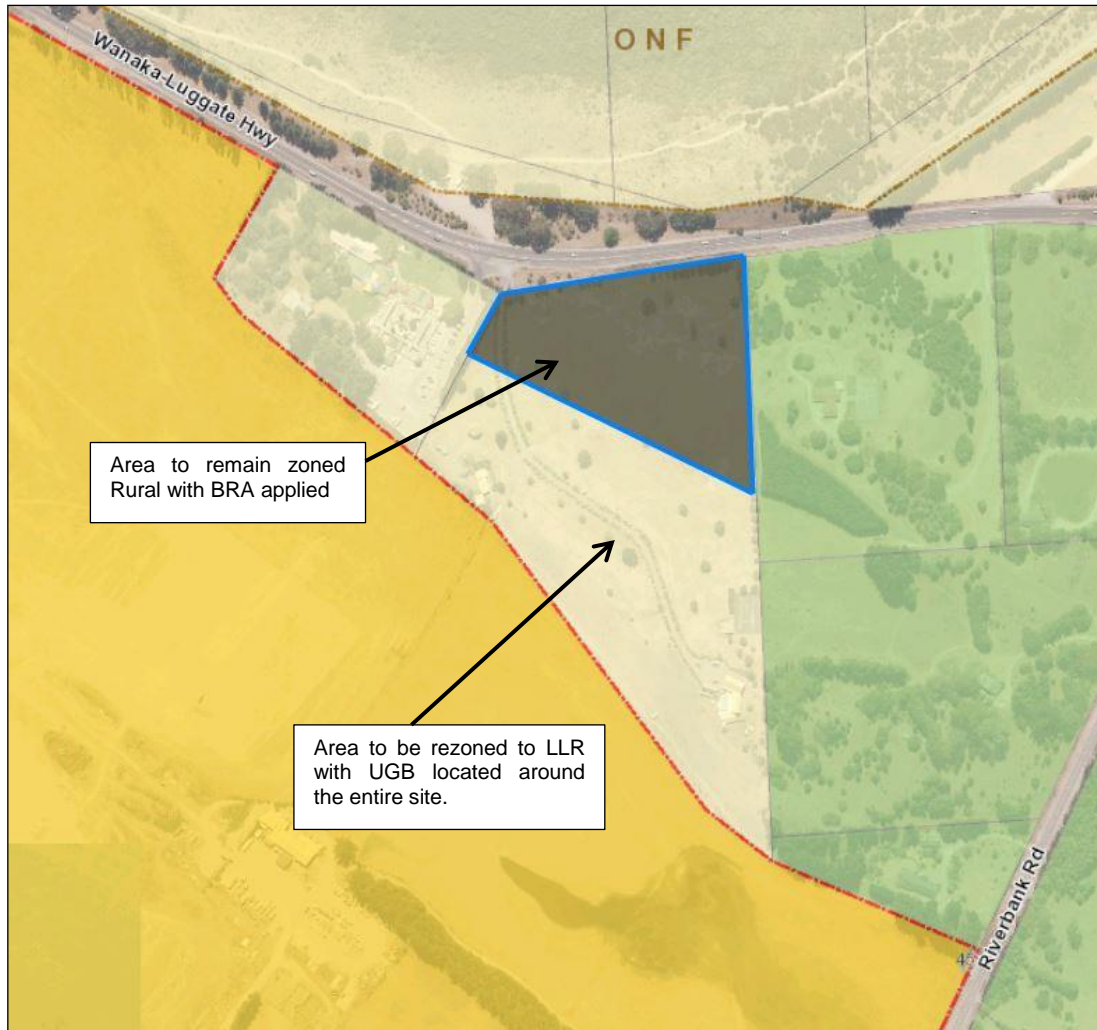


Figure 10. Planning map 18: Area recommended to be rezoned Large Lot Residential A, with the north portion (delineated in blue) containing the terrace riser to be retained as Rural with a BRA imposed.

23. SCOTT MAZEY FAMILY TRUST (518)

23.1 I can confirm that there are not any submissions seeking that the boundary of the ONF at Mt Iron be amended to include the land owned by the Mazey Family Trust. While this is less than ideal in terms of the accurate identification of the ONF, the majority of this site, except where the existing house is located, is an SNA and I consider that this provides a substantial degree of environmental protection. However if the Panel consider that the notified landscape lines do not give effect to the PDP Strategic Directions (which I consider encapsulates s6(b) of Act) they could suggest the Council initiates a variation.

GROUP 3 RURAL

24. UPPER CLUTHA ENVIRONMENTAL SOCIETY (1034)

24.1 Having considered Mr Howarth's appearance and submissions at the hearing on 14 June, I maintain my opinion that the identification of the ONL, ONF and RLC landscape areas is best practice and will ensure the PDP gives effect to section 6 of the Act.

24.2 Mr Howarth would rather the landscape classifications be included on the Planning Maps as guidance only. This is an advancement from the ODP, which does not include the landscape lines/classification over all areas of the District. However I doubt the effectiveness of Mr Howarth's suggestion that the lines be determined by the Environment Court for the following reasons:

- (a) reliance on Environment Court processes to determine the lines/classifications is flawed logic because it is reliant on an appeal being filed and proceeding to a hearing;
- (b) even where the Court determines the location of a landscape line, it is for the purposes of that appeal and the specific facts of that case. The Court's decision is also confined to the application site, not the entire ONL or ONF;
- (c) the Court, through a resource consent, cannot direct the Council to modify its planning maps. A Schedule 1 plan change is necessary for changes to the planning maps; and
- (d) while the outcome of the Court decision could be considered a best practice outcome, the landscape lines are still open to other interpretations by other appeals before the Court, depending on the best evidence presented by the interested parties.

25. LAKE HĀWEA CAMPGROUND & SURROUNDS – SARAH BURDON (282)

25.1 Ms Mellsop has advised in her Rebuttal Evidence that she does not support rezoning in the 1.4 ha area to the north (Lot 1 DP 418972), and the 5.6 ha area located between SH 6 and the 15.7 ha area land owned by the Council (Lot 2 DP 418972). Ms Mellsop has confirmed

her opinion in her Rebuttal that the 5.5m building height limit (Area 3) and 8.0m (Area 2) building height limit would be appropriate from a landscape perspective.

25.2 At paragraph 4.8 of her Rebuttal Evidence Ms Mellsop expressed reservations with the 7% building coverage, noting that 7% building coverage on the Council owned land alone would equate to 10,990m² building floor area. Ms Mellsop considers that absorption of this extent of built development without significant adverse effects on the character of the wider landscape or on visual amenity would require excellent design, in terms of site layout, retention of existing vegetation and landscaping. Ms Mellsop does not consider that the matters of control in the ODP Rural Visitor zone would be sufficient to ensure an appropriate high-amenity landscape outcome.

25.3 After his appearance at the hearing on 6 June 2017 for the submitters, Mr White, filed supplementary evidence on 12 June 2017 on the existing building coverage and advised as follows:

I was also asked to provide information on the building coverage on the site. The campground has buildings with a total site coverage of 1,094m², all but one of these buildings are on or partially on the designation. The designation has an area of 2.8 ha. Buildings therefore cover 3.9% of the designated area. The designation provides for up to 40% site coverage or 11,200m².

25.4 I consider that the designation coverage condition should not be used as a baseline to establish coverage across the entire site; only a requiring authority can act under the designation provisions. I agree with Ms Mellsop that a 7% building coverage in terms of both the Council owned portion of the site on its own, and the entire area requested by the submitter, is inappropriate because it would not provide sufficient certainty that landscape character and quality would be maintained.

25.5 To reiterate, Mr White's evidence recommended the following comments and modifications to the ODP Rural Visitor Zone chapter, to manage the effects of development within the Lake Hāwea Campground, should it be rezoned from Rural to Rural Visitor Zone:

- (a) objectives and policies remain unchanged;
- (b) residential activity in the Lake Hāwea Campground Zone would be non-complying;
- (c) a 20m setback of buildings and the area retained as a vegetated buffer from the SH6 boundary;
- (d) building height rules to reflect the height plan in Areas 2 and 3 attached to Mr Whites evidence;
- (e) building coverage of 7%; and
- (f) no additional assessment matters.

25.6 In addition, Mr White tabled a summary statement at his appearance at the hearing that included an evaluation of the Council's Reply version of the Strategic Directions Chapter against the Rural Visitor Zone. The column is titled '*How does Rural Visitor Zone fit within Strategic Direction of the PDP*' I consider that this primarily assess the efficacy of the requested rezoning against the PDP Strategic Directions chapter. However, the evaluation should also include an evaluation of the entire policy framework and anticipated environmental results as they relate to all provisions associated with the rezoning.

25.7 Mr White's evaluation should have looked beyond the immediate merits and effects of the requested rezoning and bespoke rules, and also included a more detailed evaluation of the policy framework of Operative Rural Visitor Zone Objective.

25.8 I remain of the view, as set out in my respective Strategic (Part 13), Group 3 Rural EIC (Parts 3.15-3.17), Rebuttal (Parts 173 – 17.7) and Summary statement tabled at my appearance at the hearing on 17 May 2017, that the Rural Visitor Zone framework provides no assurance that development (most of which would be located within the ONL) would both give effect to the Strategic Directions chapters 3-6, and enable the PDP to give effect to section 6 of the Act.

25.9 I consider that the fundamental issues with the Operative Rural Visitor Zone are the inability to provide certainty that the landscape can be protected, and the lack of certainty associated with the scale and

intensity of development. I acknowledge that Mr White and Mr Espie have recommended a range of provisions to mitigate the visual effects of buildings, and provide more certainty on the building coverage over the site. However, these are not considered by Ms Mellsop or myself to provide appropriate certainty or protection of the landscape.

- 25.10** There is one Objective for the Rural Visitor Zone, and an introduction statement titled 'Resources and Activities' (Volume B 12.3.1):

The Rural Visitor Zones contain important recreation and visitor facilities, including accommodation and other visitor attractions.

Significant physical resources in terms of buildings and facilities exist or are proposed in all the zones both as attractions in their own right or as facilities which serve the visitor industry and surrounding rural or recreation activities. This is particularly the case in respect of those facilities at Cardrona located on the Crown Range Road.

The most distinguishing feature of the Visitor Zones is their compact size, general self-sufficiency and distance from the main urban centres.

Objectives [sic]

Provision for the ongoing operation of the existing visitor areas recognising their operational needs and avoiding, remedying or mitigating adverse effects on landscape, water quality and natural values. Scope for extension of activities in the Rural Visitor Zones.

- 25.11** The relevant policies (that are not related to a specific Volume B location) are:

Policies:

- 1 To recognise the existing and proposed visitor and recreation facilities in the rural visitor areas and to provide for their continued operation and expansion.*

- 2 *To ensure development, existing and new, has regard to the landscape values which surround all the rural visitor areas.*
- 3 *To ensure expansion of activities occur at a scale, or at a rate, consistent with maintaining the surrounding rural resources and amenities.*
- 4 *To recognise the heritage values of the Rural Visitor Zones and in particular the buildings at ...*
- 5 *To ensure sewage disposal, water supply and refuse disposal services are provided which avoid, remedy or mitigate adverse effects on the water or other environmental qualities, on and off the site.*

25.12 Regarding the introduction and objective it would appear that the zone caters for existing facilities and proposed extensions. It appears that the zone provisions were intended to be focussed around a structure plan but there is no connection between the preparation of the structure plan (a controlled activity (Rule 12.4.3.2)) and rules relating to other activities (i.e. Controlled Activity Rule 12.4.3.2.iii Buildings). There would also be concern about the *vires* of activities based on a structure plan created by resource consent, as opposed to a structure plan within the provisions.

25.13 I have not identified any rules that require consent of a certain type (i.e. non-complying) if an activity is undertaken without a structure plan. In addition, there are not any structure plans for any of the existing zones identified in the Operative Rural Visitor chapter. Therefore, the perceived incentive that activities in accordance with, or lodged with a structure are a controlled activity, and activities that are sought without are, for instance, non-complying does not exist. There is no incentive to lodge a structure plan because Rule 12.4.3.2.ii provides for buildings as a controlled activity, and Rule 12.4.3.1 permits all activities not otherwise identified. Therefore, for example, buildings and visitor accommodation up to 12m height without a structure plan are a controlled activity.

- 25.14** In the Operative Rural Visitor zone the activities provided for include residential activities (permitted activity), commercial recreation and visitor accommodation (controlled activities) and commercial and retail (Rule 12.4.3.3 discretionary activities). It is also noted that farming is a non-complying activity (Rule 12.4.3.4). All buildings, including residential, are a controlled activity. There are no density standards, only standards for height and building setback.
- 25.15** The height standard for visitor accommodation is 12m, 8m for commercial, recreation and residential activities, and all other buildings and structures are 7m (Rule 12.4.5.2.i).
- 25.16** Rule 12.4.5.2.ii (a) controls atmospheric emissions by 'within any premises the best practicable means shall be adopted to minimise the emission of smoke'. I noted that I have concerns with the *vires* of this rule because it is subjective. Rule 12.4.5.2.ii (b) also controls fireplaces and restricts them to certain areas in buildings. I consider that this rule is potentially outside the ambit of a district plan and is a matter for regional councils' air plans under section 30 of the Act.
- 25.17** Despite the attention given in the Volume B Rural Visitor Zone Objective and policies to landscape and servicing and the intensity of activities, I do not consider these are able to be managed appropriately because the rules are inadequate and prevent this policy framework from being given effect to. Therefore, I do not consider the Operative Rural Visitor Zone Chapter gives effect to the Strategic Directions of the PDP, in particular Chapter 6 Landscapes.
- 25.18** I also consider that the extent of hazards, which are identified in the Geosolve preliminary hazard assessment attached to Mr White's evidence, warrants at least a restricted discretionary activity status for any rezoning of any parts of the site to Rural Visitor Zone, as set out in Part 4 'Conclusions and Recommendations' of the Geosolve Report.
- 25.19** I consider it is reasonable to expect future development on the parts of the site where landscape effects can be appropriately managed, be it within the Council's camping ground designation area (Designation

175) or elsewhere. However, the mechanism sought by the submitter is not considered to be appropriate and for the reasons set out above I prefer the Rural Zone to the Operative Rural Visitor Zone, and maintain my position to reject the rezoning request.

26. GLEN DENE (384) AND LESLEY AND JERRY BURDON (581)

- 26.1** In a joint statement of evidence at the hearing, Mr Duncan White for Glen Dene and Mr Ian Greaves for Lesley and Jerry Burdon, proposed a combined Rural Lifestyle Zone at Glen Dene Homestead and at the property of Lesley and Jerry Burdon (Lot 1 DP 396356). A plan of the proposed zone was filed on 13 June 2017 (Exhibit 34).
- 26.2** The proposed combined Rural Lifestyle Zone the 'Glen Dene Rural Lifestyle Zone' includes new provisions to ensure that a vegetation management plan is prepared for the BRA on each lot within Lot 1 DP 396356, and that the number of new vehicle crossings on this lot is limited to one.
- 26.3** Both I and Ms Mellsop agree that the revised rules provide a greater level of certainty that indigenous vegetation would be maintained and enhanced on Lot 1 DP 396356 and that a single shared entry from SH6 would be used for all four proposed additional platforms.
- 26.4** I consider that in addition to these rules, the proposed vegetation management plan for Lot 1 DP 396356 should be required to distinguish between the use of native planting for visual screening, or to enhance ecological values. These are different concepts and the management plan should be clear as to the outcomes sought of the vegetation management and any planting.
- 26.5** I also consider that if the Panel accept the submission, all the references to the legal descriptions should be replaced with a distinction between the two areas (i.e. Glen Dene Area 1, and Area 2', or more neutrally, Rural Lifestyle Zone A and B)) and these should be identified on the Planning Maps.

- 26.6** The reason for this is that after the first subdivision the legal description would be lost and this would create unnecessary confusion. It also creates confusion and uncertainty to other unrelated Rural Lifestyle Zoned land where the land is a 'child' of the original allotment.
- 26.7** However, overall Ms Mellsop in her Reply Evidence maintains her opinion that the BRA on the Glen Dene homestead slopes, which are open to the lake, should be extended, as recommended in paragraph 4.2 of her Rebuttal Evidence.
- 26.8** From a landscape perspective, Ms Mellsop also remains uncomfortable with the proposal and does not consider that the proposed policy of "*ensuring that activities are inconspicuous from the road, Lake Hāwea township and Lake Hāwea*" could be achieved with the methods proposed.
- 26.9** Ms Mellsop also notes in her Reply Evidence that there does not appear to be any requirement to submit a landscape plan for the dwelling and curtilage prior to construction, in order to achieve screening and integration. The curtilage areas on Lot 1 DP 396356 are large (between 0.8 and 1.5 hectares) and could be visually prominent if maintained as mowed lawn or gardens with exotic trees.
- 26.10** Ms Mellsop remains of the opinion that, with respect to Lot 1 DP 396356, a lesser extent of development could be absorbed at the southern end of the lot, and she continues to oppose the submission.
- 26.11** Ms Mellsop also considers that the BRA on the Glen Dene Homestead land should be extended as set out in her Rebuttal evidence and that a rule should be included requiring the submission of a landscape plan (for the land outside the BRA) to Council prior to construction of any dwelling. Ms Mellsop considers that this would ensure that built form and associated activities within the zone are inconspicuous when viewed from Makarora-Lake Hāwea Road, the Lake Hāwea township and Lake Hāwea.

26.12 To give effect to Ms Mellsoy's suggestions, from a planning perspective, I consider that the first subdivision on the 'Glen Dene homestead' (384) submission land should also include a requirement for a vegetation management plan. However it would be different to the area to the south in that it would need to potentially show areas where domestic planting/curtilage development is not allowed. This would ensure that the domestication of the area is limited and the policy that built form and associated activities are inconspicuous.

26.13 I consider that with the exception of the suggested modifications above, from a procedural perspective that the proposed provisions could provide adequate certainty that the Rural Lifestyle Zone residential subdivision and development could be adequately controlled, particularly in terms of section 6(b) of the Act. I consider that the proposed objective, policies and rules provide an appropriate balance in terms of detail that provides certainty, without any rules being unnecessarily onerous and prescriptive such as those requested by other submissions for Rural Lifestyle land in sensitive locations (i.e. Allenby Farms (502)).

26.14 Overall however, I maintain my opinion that the most appropriate zoning is Rural. I refer to my Rebuttal Evidence that sets out that these bespoke provisions are already an expectation for developments in the Rural Zone ONL. I recommend the submission is rejected.

27. LAKE MCKAY STATION LTD (439, 481, 483, 484)

Submission 482 (ONL) and 439 (SNA)

27.1 With regard to the information tabled at the hearing associated with landscape lines and the SNAs I refer to and rely on the opinions of the Council's respective experts Ms Mellsoy for Landscape and Mr Davis for ecology. I maintain my opinion that the landscape lines and SNAs pursued by the Council are the most appropriate method to meet the purpose of the Act, in particular section 6(b) associated with the protection of ONLs from inappropriate use and development, and

Section 6(c) with regard to the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Submission 483 (Atkins Road Rural Residential Zone)

27.2 I heard nothing in the course of the hearing that leads me to alter my opinion that the reduced Rural Residential Zone is the most appropriate zone. I maintain my recommendation set out in my Group 3 Rural EIC, that the Rural Residential Zone should be limited to 5 ha, rather than the 17 ha sought by Lake McKay Station. I would support adding the area of the zone to the south as shown in Appendix 2 of the information tabled by Mr Kelly at the hearing,³¹ only if this is to be vested in the Council as a reserve. **Figure 10a** below shows the area of land I recommend be rezoned to Rural Residential.

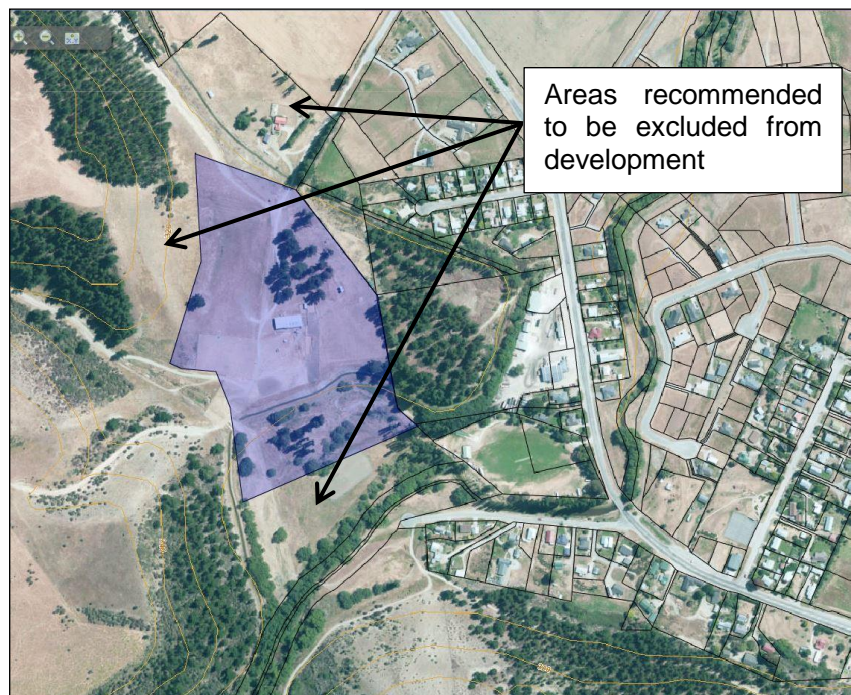


Figure 10a. Annotated aerial photograph of the area I recommend is rezoned from Rural to Rural Residential, blue shaded area. The area excludes the land on the northern side of Atkins Road, and also excludes the BRAs volunteered by the submitter. The contours indicate the location of the terrace face where the volunteered BRA is (contours at 20 metre intervals).

Submission 484 (Rural Lifestyle Zones)

- 27.3** I have reviewed Mr Kelly's updated plan and provisions for a site-specific Rural Lifestyle Zone, attached to Appendix 4 of his evidence tabled at the hearing.
- 27.4** I refer to Ms Mellsop's Reply where she considers that the updated provisions and the Area 1 structure plan are helpful in defining the anticipated landscape outcomes for the rezoning areas. Apart from the structure plans, a building height restriction and a requirement for landscape plans to be submitted before dwelling construction, there are no proposed rules, assessment matters or other methods to implement many of the policies.
- 27.5** I do not consider the updated provisions provide enough certainty and I consider that in this elevated and exposed area, any development proposal should be subject to the Rural Zone's assessment matters. Ms Mellsop also considers that it would be difficult to implement the proposed policy of ensuring that built form (including roads) would be inconspicuous from public places. Ms Mellsop notes that even if development was not visible, the extent of rural living modification of the sites would inappropriately degrade the values of the ONL.
- 27.6** I note that Ms Mellsop considers that the provisions could however be achievable in proposed Area 3. Ms Mellsop recommends that the phrase 'reasonably inconspicuous' used in the proposed policy be altered to 'reasonably difficult to see', to ensure the outcome was consistent with that anticipated in the Rural zone assessment matters for ONLs.
- 27.7** I maintain my opinion that the Rural Zone and assessment matters are the best method to manage any residential development in these areas. I maintain my position that the Rural Lifestyle Zone requests are rejected.

28. WILLOWRIDGE (249) (LUGGATE)

- 28.1 For context, the site is subject to a resource consent (RM060392)³² for 138 urban allotments to be created over a 30ha area of the site. Conditions of consent emulate the Operative LDRZ provisions.
- 28.2 A separate resource consent (RM060393)³³ provides for a 22 lot subdivision and land use for the construction of dwellings at a density akin to the Rural Residential Zone. The conditions of the resource consent require an open space area, and controls including the location of residential building platforms, design controls, for example colour and materials, and each lot has specified maximum height limit, and floor level heights.
- 28.3 A copy of the approved plans and conditions of consent are attached at **Appendix 7**.
- 28.4 Mr Dippie in his appearance at the hearing suggested that the LDRZ rezoning should occur and that it would facilitate more affordable housing. I also consider that rezoning this land would be much simpler from an administration perspective because while there are a suite of bulk and location rules that form part of the consent and will be registered on the titles, the resultant allotment owners would need to apply for a resource consent under the Rural Zone rule framework. I consider there could be efficiencies made from this perspective to rezone the land LDRZ.
- 28.5 However, there are a wide range of mitigation requirements within the resource consent for Luggate Park Stage 2A (RM060392). I consider these conditions are more efficiently given effect to by the resource consent, rather than rezoning the land and applying the environmental outcomes envisaged by the resource consent through a structure plan. These conditions include:

32 In addition RM150996 has been approved to vary the conditions of consent associated with staging stormwater management.

33 RM170417 has been approved to vary the conditions of consent associated with the colours and materials of future buildings.

- (a) development is contained to the lower part of the site and the upper terrace riser and platform that is located at the eastern part of the site will be vested as reserve;
- (b) the layout of the subdivision is considered to perform reasonably well in terms of its role as the new eastern extension of Luggate, including the setback from SH 6 Luggate-Cromwell Road, and the areas set aside to be vested as reserve;
- (c) the roading layout is reasonably well coordinated with reasonable connections;
- (d) the subdivision engineering and design including the realignment of watercourse are well advanced and have been through a series of Council approvals, including engineering design and approval for bulk earthworks and the realignment of the watercourse 'Dead Horse Creek' through the site;
- (e) lots with frontage to SH 6 subject to reverse sensitivity encumbrances (Condition 6i);
- (f) implementing substantial areas for reserve and landscaping (Condition 6k);
- (g) installation of profile poles and mounding to ensure that mitigation mounding fully screens the buildings from SH 6 to the northeast of the subject site (Condition 6j);
- (h) certainty with regard to the wastewater and water supply (I note that Mr Glasner opposed any further intensification of development until upgrades are facilitated via Long Term Plan funding, and the submitter has not addressed this matter); and
- (i) restrictions on minimum floor levels to mitigate flood risk (Condition 7b).

28.6 The submitter has not provided any assurances that the extent of the subdivision would not increase, nor how the consented design provides an important way to limit and mitigate adverse effects of the development and the developments role as the interface and arrival to Luggate from the south.

28.7 For these reasons I consider that the most appropriate resource management method is for the consents to be exercised, and the most appropriate zoning is Rural. I maintain my opinion that the submission should be rejected.

28.8 Question 5 (xix) of the Reply Minute is:

What is Council's response to Mr Dippie's evidence that rezoning the lower terrace land being developed [sic] by Willowridge Ltd at Luggate would be consistent with the suggestions the Council has made to him regarding the desirability of affordable home options being provided at that location.

28.9 The allotments are in the range of 800m² - 1100m² in area. I have reviewed the Commissioners decision to RM060392 and it appears that a desire of the submitters and their conditional support of the proposal was that larger sized urban sections in this extension to the township would retain the character and feel of Luggate. The Commissioner appeared to accept these views in their findings. However, I also consider that the merits of design and the ability for sprawl of the urban development to be contained, and the overall effects or urban development on landscape amenity mitigated to also play an important part of the overall quality of the development and its character, rather than limiting the density of allotment sizes within the subdivision itself.

28.10 I agree with Mr Dippie that the ability to create a range of smaller sections assists with affordability because it means a developer can produce more lots over the same area and the cost of developing the land and headworks/connections fees can be distributed over a higher number of properties, theoretically reducing the costs per site that a developer needs to pass onto the market. I also accept that smaller sections could result in lower market prices. I consider that these statements are consistent with my responses to the Reply Minute's questions on whether the NPS-UDC requires affordability.

28.11 However as set out above, it is my opinion that rezoning this land to LDRZ presents more problems than solutions and I consider the

consent should be given effect to and zoning retained as Rural. I support increasing the yield but not if it will create unanticipated problems associated with infrastructure servicing (primarily wastewater) or detract from achieving the mitigation provided through the existing consent.

28.12 Although it is not within the ambit of the Panel to do so, I suggest that a viable alternative, which has not been canvassed by the submitter is to apply for a variation to the resource consent that uplifts certain restrictions that would facilitate infill or, reconfiguring the allotment design within the same roading and subdivision layout, to provide for more lots within the same area that is consented to be developed.

28.13 I consider the following conditions in particular could be revisited to achieve better efficiencies for the developer that could equate to 'affordability' outcomes for the market or at least efficiencies associated with the consenting for future housing within this development:

- (a) 7e that limits a maximum of one dwelling per site. This condition appears to disqualify Residential Flats;
- (b) 7h – p contains bulk and location and amenity related rules from the ODP and it could be more efficient if the PDP LDRZ equivalent LDRZ rules were emulated;
- (c) 7r which is a potentially ultra vires condition requiring that roofs cannot be shiny. Many surfaces, especially pressed steel cladding or roofs are shiny to some extent, however it is the level of reflectance value of the finishing that is used as a descriptor to manage the visual prominence of buildings;
- (d) 7w is a no-complaints condition associated with the construction of a power station on the adjoining property. I understand that Contact Energy have sold this land and the condition may no longer be necessary.

28.14 I don't believe the submitter has considered this alternative, which is a possible solution whilst retaining what I consider to be the most appropriate zone type; Rural.

29. REKOS POINT: FOREST AND BIRD (706) AND EVAN ALTY (339)

29.1 I incorrectly advised in my Group 3 Rural EIC at Part 12.4 that the resource consent for the 52 lot residential development at the Rekos Point Rural Residential Zone, located west of Kane Road, was appealed to the High Court and upheld, resulting in the consent being quashed.

29.2 I provide the corrected planning history of this site as follows:

- (a) in 2001 the then owner of the subject site (Black Bag Limited) gave a covenant over the land "*...restricting rights to subdivide such land to the creation of no more than three separate allotments with further restriction of one dwelling per such lot*";
- (b) a submission was made on the 1995 Proposed District Plan to rezone 27.35 hectares from Rural General to Rural Residential Zone. The Council decision on submissions dated August 1998 rejected the submission. The decision was appealed and it appears as though the rezoning was accepted by way of a consent order;
- (c) in 2004 a land use resource consent was granted (Fox Rock Developments Ltd RM040158) for 52 leasehold properties with leases to endure for no longer than 30 years, avoiding the proposal qualifying as a "subdivision" under the RMA and circumventing the covenants that restrict subdivision;
- (d) a condition of the consent (Condition 23) was that the consent was limited to a duration to 30 years and required that on the lapse of the consent all buildings be removed from the site and that the identified building platforms be removed from the title;

- (e) that condition was appealed to the Environment Court³⁴ by the consent holder (E J Clearly). The Congreve Family Trust was a submitter on the land use consent application and a section 274 party to the Environment Court appeal. The appeal was dismissed and the condition was upheld;
- (f) the consent holder became Big River Paradise Ltd;
- (g) an appeal to the High Court by Congreve was dismissed on 3 August 2006 and the consent was made operative;³⁵
- (h) subsequently, Congreve Family Trust further appealed to the High Court³⁶ seeking a declaration as to the correct interpretation the covenant affecting the 'Rekos Point site' that states:

No subdivision of the Servient Lot shall permit the creation of more than three separate allotments nor permit more than one dwelling to be erected on each such allotment.

- (i) the Congreve Family Trust were successful and obtained a declaratory judgement that the true construction of the covenant was:³⁷

Prevent the creation of more than 3 allotments or the construction of more than three buildings on this servient land.

29.3 Condition 22 of the resource consent set a lapse date of five years to give effect to the consent in accordance with section 125 of the Act. The Council's records do not show of any application for or decision to extend the lapse date and the consent would have expired in 2011.

³⁴ *E J Cleary v Queenstown Lakes District Council* EnvC 70/2006.

³⁵ *Congreve v Big River Paradise Ltd and Queenstown Lakes District Council* High Court Christchurch CIV 2006-406-768

³⁶ *Congreve Family Trust v Big River Paradise* High Court Auckland CIV 2005 404 6809.

³⁷ *Congreve Family Trust v Big River Paradise* High Court Auckland CIV 2005 404 6809.

29.4 The Panel also requested a copy of the title and instruments. The Rekos Point Rural Residential Zone is Lot 4 DP 20242 held in Computer Freehold Register 666550. Instrument 5066489.5 is registered on this Computer Freehold Register (**CFR**), which is a record of the declaratory judgement confirming the effect of the covenant. A copy of the CFR and instrument is attached as **Appendix 8**.

29.5 I consider that my initial recommendation is still relevant and I maintain my opinion that the most appropriate zone is Rural because of the uncertainty associated with the covenant. In addition, Ms Mellsop's opinion is that the site is part of the Clutha River corridor ONL and therefore Rural Residential Zoning is not appropriate.

29.6 I also note that the landowner and further submitter opposing Forest and Bird's submission (1162), James Cooper has not provided any evidence on this matter.

30. GLENDHU BAY TRUSTEES LIMITED (GBT) (583)

30.1 I have considered the appearances by the submitter at the hearing on 8 and 9 June 2017, and the additional information and further iterations of the planning provisions presented by Mr Fergusson. I note I have also read Counsel for Glendhu Bay Trustees Ltd's (**GBT**) legal submissions for a full understanding of the revised relief now being pursued by the submitter.

30.2 I have also considered the evidence and information tabled by the further submitters opposing GBT's submission from Tui Advisors (1053), Upper Clutha Environment Society (1034) and John May (1094).

30.3 In particular, I have summarised the key matters of concern in Mr Taylor's planning evidence³⁸ (on behalf of John May) tabled at his appearance at the hearing on 14 June 2017:

³⁸ Supplementary Planning Evidence of Graham Rutherford Taylor on behalf of John May (FS1094.7) 14 June 2017.

- (a) while some of the amendments of Mr Ferguson's 6 June version of the Glendhu Station Zone chapter (**GSZ**) may on the surface address issues identified with the original submission and 4 April iteration, they do not completely address all of them, and in some respects raise additional deficiencies or areas of concern;³⁹
- (b) the proposals still do not reflect the development approved by the Environment Court, and the level of development will be more enabling of development at the expense of ONL values such that the overriding provisions of section 6(b) of the Act are not met;⁴⁰
- (c) better control over the effects of development are achieved under the discretionary status of the Rural Zone provisions that allows consideration of all effects of the development and use of land, and facilitates wider public participation through notification provisions where the effects determine this to be necessary;⁴¹ and
- (d) the objective and policies place primacy on development and this is not appropriate given the requirement to protect the ONL from inappropriate development.⁴²

30.4 I agree with Mr Taylor's concerns and consider that these align with my EIC and Rebuttal statements on the GBT submission, in particular with my Rebuttal comments of the 4 April iteration of the proposed GSZ chapter that is attached as Appendix 4 to my Rebuttal.

30.5 Dr Read's Reply has focussed on the supplementary evidence of Ms Pfluger and Mr Ferguson associated with the R Activity Area. I agree with and support Dr Read's comments on this matter. I consider that the variance sought by the requested planning framework compared to the comparative development enabled by the consented environment is excessive, and the degree of adverse effects is not appropriate and would not give effect to the PDP Strategic Chapters or section 6(b) of the RMA. I also state this in the context of not just

39 Supplementary Evidence of Mr Taylor, at paragraph 5.

40 Supplementary Evidence of Mr Taylor, at paragraph 9.

41 Supplementary Evidence of Mr Taylor, at paragraph 11.

42 Supplementary Evidence of Mr Taylor, at paragraphs 19 – 26.

the eight additional building sites but the overall planning framework for residential development in the R Activity Area.

- 30.6** Mr Ferguson's supplementary evidence tabled at the Hearing on 8 June 2017 discussed several matters and I comment on these below in the same structure they appear in his evidence.

Activity Area OS/F / Alternative Approach

- 30.7** At his paragraph 9 Mr Ferguson states that the primary reason for the inclusion of the OS/F Activity Area in the GSZ is "*because this land provides for the bulk of the package of positive environmental effects that are integral to the development area*". Mr Ferguson considers that incorporating this land into the GSZ and one chapter of the District Plan more clearly provides an integrated approach to the management of the land.⁴³
- 30.8** I agree with Mr Ferguson that it could be simpler to include all land subject to the development in the one zone. However in this case the areas of the OS/F Activity Area that are related to the development, in terms of transposing the compensatory components of the resource consent, being the trails and covenant areas are not in themselves justification for the creation of a new zone. The area to be utilised for trails are only a very small part of the OS/F Activity Area. The non-complying status for buildings within a BRA already exists in the Rural Zone Chapter 21 provisions.
- 30.9** At his paragraph 11 Mr Ferguson also emphasises that the OS/F Activity Area rules are designed so that very little development is anticipated, in particular he notes farming, with some visitor accommodation and two dwellings subject to resource consent. Mr Ferguson states that the OS/F zone provides for a high level of protection of this land, and the covenant areas are even more restrictive by requiring a non-complying activity resource consent. Mr Ferguson considers that this rule and policy approach provides more protection to landscape values than the Rural General (sic) zone

⁴³ Supplementary Statement of Evidence of Christopher Ferguson dated 6 June 2017 on behalf of Glendhu Bay Trustees Limited (583), at paragraph 10.

provides (the zone name in the PDP is Rural Zone, nor Rural General).

- 30.10** I do not agree with this statement and as set out in my Rebuttal Evidence there are gaps in the framework of the GSZ that make it inferior from both a protection and administration perspective compared to the Rural Zone. For instance, although buildings have a non-complying activity status under the OS/F Activity Area, I consider that the policy framework of the GSZ is too enabling and there are not any assessment matters. Compared to the Rural Zone and its integration between the Assessment Matters in Part 21.7 and the Landscape Chapter, the GSZ Zone is substantially inferior and in my view, less appropriate.
- 30.11** GBT has suggested an alternative approach as set out in paragraphs 13 – 18 of Mr Ferguson's evidence to replace areas of the OS/F with the Rural Zone, while leaving some areas as OS/F where they are affected by the covenant areas. I do not see any reason why the entire OS/F Activity Area could not be replaced by the Rural Zone, and the 'covenant' areas can be shown on the PDP Planning maps as BRAs. While there are provisions relating to the formation of trails, I question the necessity of these being located as standards.
- 30.12** I consider that a fundamental issue now presented by the removal of the OS/F area in part or whole, is that while Mr Ferguson has cross referenced the trails now suggested to be located in the Rural Zone,⁴⁴ I do not think is appropriate for the trail location to be shown on the Planning Maps. This is because of the scale that they would be presented at (ie, it would be almost impossible to see exactly where the trail was located), and that the rules for the activity would be located in the GSZ, despite the trails being shown over the Rural Zone. While I acknowledge that this is a consequence of my suggestions to retain as much Rural Zone as possible, I consider it does raise further concerns associated with the administration of the chapter.

44 Supplementary Evidence of Mr Ferguson, at paragraph 16.

30.13 Rather than showing the trails on the Planning Maps over a Rural Zone, I consider that it would be better for the trails to be included/retained in the Structure Plan and the policy framework of the GSZ, but that instead of there being stand-alone rules associated with their formation (ie, Rule 44.6.1.1 (Standards for Public Access Trails)), they should be required to be implemented as part of the matters of discretion associated with the respective land uses that are linked to in proposed Rule 44.6.1.2 (Timing and Formation of Public Access Trails).

30.14 The activities identified in Rule 44.6.1.2 that are linked to land uses are:

- (a) Public Access Trail 1 – operation of the Golf Course in Activity Area G. The operation of the golf course is a permitted activity pursuant to the structure plan (Rule 44.5.10), therefore I recommend that the formation of the trail is linked to a rule that requires the construction of buildings in the G Activity Area as a restricted discretionary activity. (ie, amend Rule 44.5.2 to include the formation of trails as a matter of discretion and make the activity status restricted discretionary);
- (b) Public Access Trail 2 – shall be formed prior to the issue of the s224(c) certificate for the tenth home site. This can be tied into the matters of discretion for subdivision in R Activity Area. I note that the submitter has not proposed any subdivision or district wide rules;
- (c) Public Access Trail 3 – shall be formed prior to the occupation of the clubhouse. This can be tied into a requirement for a restricted discretionary resource consent for the clubhouse;
- (d) Public Access Trail 4 – shall be formed prior to any occupation of visitor accommodation in the LS Area. This can be tied into a requirement for a restricted discretionary activity resource consent for visitor accommodation buildings in the LS Area; and
- (e) All other public access trails shall be formed within 3 years of commencement of construction of any residence / visitor

accommodation in Activity Area R. This could be tied into the discretionary activity resource consent for the building, or to ensure the onus falls on the developer, it could be tied to the subdivision of these sites.

- 30.15** The provisions as drafted require the trails to be formed prior to these activities establishing and my suggested alternative also does not prevent the trails from being constructed *prior* to the consent being made for the specified activity. Tying the completion of the construction to the matters of discretion to a milestone activity envisaged by the structure plan will ensure these occur as anticipated.
- 30.16** This will remove the need for the formation of the trails to be included as a standard. It also would remove these provisions that are in reality, conditions of consent, and still drafted as such, from being applied as rules. It is appropriate that they are applied as matters of discretion from a *vires*, administration and outcomes perspective.
- 30.17** I acknowledge that Rule 44.6.1.2 as currently drafted stands alone and has a non-complying status for non-compliance, and making their formation part of the matters of discretion for a restricted discretionary activity for a building or activity that is contemplated by the zone framework could be seen to lower their importance. To overcome this, the policy framework could be phrased to be sufficiently directive that deferring or not undertaking the formation of these in accordance with the development is not an option worth pursuing.
- 30.18** I also note that this will require the construction of buildings that currently have a controlled activity status to have a restricted discretionary, status. However, compared to the alternative Rural Zone framework, and the overall guidance from the purpose of the GSZ and tailored policy framework that could provide for buildings in the specified activity areas on the basis the values of the ONL are protected, maintained and enhanced, the restricted discretionary activity status is not in my view unduly onerous. It will also remove the current mistake in the GSZ provisions that Rule 44.6.1.2 refers to the public trails proposed that are numbered, when there does not

appear to be any numbering to identify public trails on the structure plan.

Two Residential Units in Covenant Areas

- 30.19** I maintain my opinion that it is poor drafting to have carve outs for residential activity using only a legal description as a reference. The submitters seem to be leveraging any opportunity given in the Environment Court decision with regard to future development, but seem to extend this when it suits. Given the totality of activities sought by the GSZ package I do not consider it appropriate to have bespoke carve out rules amidst the covenant areas.
- 30.20** Because the rules for covenant areas do not seem to limit subdivision, it is also likely that this reference to the area by legal description could be lost, which would make for future administrative confusion.
- 30.21** Should the Panel recommend the submission is approved I suggest a subset structure plan is included that describes these areas and the GSZ chapter references that plan, rather than a legal description.

Public Access Trails

- 30.22** I acknowledge that Mr Ferguson has recommended making non-compliance with the timing of the formation of these a non-complying activity, which I support. As set out above I have suggested that the management of ensuring the construction and sequencing of trails is tied in with the approval of milestone activities, rather than a stand-alone rule. All these are associated with the types of developments the primary developer of the zone would undertake, rather than any future lot owners or tenants of the respective Activity Areas.

Activity Area GS/(FH)

- 30.23** Mr Ferguson has proposed a two-tiered rule system to limit the maximum total building coverage of the activity area to 2,500m² as a

permitted activity, then between this amount and 3,500m² would be a restricted discretionary and over this would be non-complying.

30.24 I consider that this assists with my concerns, although given the relatively large size of the FH area I consider a more comprehensive planning framework that requires a spatial layout plan. Without this, I consider that both buildings and anticipated activities should have a restricted discretionary activity status. Currently proposed Rule 44.5.2 provide for buildings as a controlled activity and Rule 44.5.10 specifies a range of commercial activities as permitted. Rule 44.5.13 limits all retailing to 500m² and I consider that this rule is a key determinant of the likely intensity of activities, including traffic generation.

30.25 The descriptor in Rule 44.5.10(c) specifies that they shall be small scale but the only limitations to buildings are where they are within 100m of a road. where the maximum footprint of any individual building is restricted to 500m², which arguably is not of a small scale in an ONL.

30.26 For these reasons I would prefer a spatial layout plan requirement to ensure this Activity Area is appropriately managed. Building constructed in accordance with this plan could hold a controlled activity status.

Activity Area GS(C)

30.27 On the basis the policy framework is further strengthened to better manage section 6(b) ONL matters, the provisions for the campground could be workable, providing the intensity and scale of activities are also comprehensively addressed. I consider the spatial layout plan and a restricted discretionary requirement for buildings and to manage the intensity of activities, in particular the potential road and traffic generation effect on Wanaka- Mt Aspiring Road would be appropriate.

General Matters

30.28 Mr Ferguson has made some changes to the text and provisions which are helpful. I also have the following comments with regard to the provisions and submission overall.

Structure and Administration

30.29 Although the policies have been strengthened I do not consider they go far enough to be appropriate in the context of the ONL and the balance between recognising development in specified areas where there is a suitable evidence basis to support activities, and managing their effects. I agree with Mr Taylor's comments that they give development primacy over environmental protection.

30.30 As set out in my Rebuttal Evidence at Appendix 4, I consider that the chapter would benefit from having more than one objective. I consider that there should be an overarching objective, with high level policies that manage bottom line environmental outcomes. Under this objective there could be policies that address both procedural and zone wide issues such as the trails and covenant / BRA and re-vegetation matters.

30.31 There should then be an objective and policy suite for each of the identified Activity Areas. I consider that when separating these out, it would become even clearer that currently the policies lean too far toward giving primacy toward development without the necessary level of environmental in particular landscape, protection considerations in an ONL.

30.32 The majority of the PDP is structured this way and it is done purposefully, not just drafting style, but to better enunciate the outcome sought for an area or resource management issue, and to give effect to the PDP Strategic Directions and the RMA. I also consider this drafting technique to be of particular assistance with respect to any future plan changes where section 32(1)(a) is of primary concern where proposals meet the objectives of the plan.

Structure Plans

30.33 I remain of the view that the key mechanical components of the GSZ should be separated from the 'day to day' rules and standards. For instance, clarification of the intention that it is the developer who lodges a spatial layout plan for Activity Area R, and not every lot owner every time a resource consent is required for residential activity or visitor accommodation. Currently Rule 44.5.4, which concerns Residential and Visitor Accommodation (all excluding buildings) in Activity Area R, appears to require the inclusion of a spatial layout and re-vegetation plan every time a consent is sought.

Status of Unspecified Activities

30.34 Rule 44.5.1(a) states that activities that are listed in the structure plan descriptor (Rule 44.5.10) and meet all other rules are a permitted activity. Rule 44.5.1(b) states that Farming Activities are permitted. I am uncertain as to the status of any other unspecified activity.

30.35 As suggested in Appendix 4 of my Rebuttal Evidence, informal airports are not specified and I am not sure as to the activity status. If it is the intention of Rule 44.5.10 that this is the 'catch-all' and unspecified activities are discretionary, then it should be reiterated in the first Rule to be consistent with the majority of zone chapters in the PDP, and as set out in my Rebuttal Evidence at Appendix 4. This is because of the environmental sensitivity and certainty promoted by this zone unspecified activities should be a non-complying status.

Earthworks

30.36 Although the PDP does not have an earthworks chapter yet, I understand that one is likely to be notified as part of Stage 2 notification planned for September 2017. If the Panel accept the submission, I consider that the Panel should recommend the Earthworks rules now, and they can then be transferred across to the PDP Earthworks chapter, once it is notified. This may or may not require a variation at the time, as the content of any GSZ and that earthquakes chapter, are currently unknown.

Farm Buildings

30.37 The GSZ zone incorrectly transposes the Farm Buildings Rule from the Rural Zone (Chapter 21). GSZ Rule 44.5.2(d) is an activity rule but it includes performance standards within it relating to height and area. The relevant standard, Rule 44.6.14, includes a range of standards the same as in the Rural Zone.

30.38 Rule 21.4.3 **[CB15]** (Activities Rural Zone) states that Farm Buildings that comply with the standards in Table 4 are a permitted activity.

30.39 Rule 21.5.18 (Table 4 - Standards for Farm Buildings) provides:

The construction, replacement or extension of a farm building as is a permitted activity, subject to the following standards:

21.5.18.1 The landholding the farm building is located within is greater than 100ha; and

21.5.18.2 The density of all buildings on the landholding, inclusive of the proposed building(s) shall not exceed one farm building per 50 hectares; and

21.5.18.3 The farm building shall not be located within an Outstanding Natural Feature (ONF); and

21.5.18.4 *If located within the Outstanding Natural Landscapes (ONL), the farm building shall be less than 4 metres in height and the ground floor area is shall not be greater than 100m²; and*

21.5.18.5 *The farm building shall be located at an elevation not exceeding less than 600 masl; and*

21.5.18.6 *If located within the Rural Landscapes (RLC), the farm building shall be less than 5m in height and the ground floor area shall not be greater than 300m²; and*

21.5.18.7 *Farm buildings shall not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.*

30.40 The standards in the Rural Zone separate the height and area from the activity itself. The intent of the rule is to provide for the opportunity for relatively small scale farm buildings within large working farms, that are at least 100ha in area.

30.41 I accept that Standard 21.5.18.7 does introduce a degree of subjectivity however this is considered acceptable in terms of the applicant showing that this can be achieved to determine permitted activity status. Typically the site plan and check of contours would satisfy this, and if required photos or communication would be required as part of the PIM or planning check as part of a building consent application. These matters were evaluated as part of the section 32 evaluation⁴⁵ and review of the operative Rural General Zone provisions and Plan Change 09 (Farm Buildings on Outstanding Natural Features). I note that this particular standard was not submitted on.

45 Refer to Issue 2, At 18-19, 27-30, 36 and 66 and 70-71.
<http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Section-32s/Landscape-Rural-Zone-Gibbston-Character-Zone-s32.pdf>

30.42 GSZ Rule 44.5.2(d) specifies that farm buildings are permitted in the OS/F, C and FH Activity Areas. However, farming is not the anticipated activity in the Camping Activity Area, and, large areas of the OS/F are overlain by covenants and the permitted status of farm buildings may not be likely to be appropriate. In addition, where the area is less than 100 ha, or the relative density is greater than one building per 25 ha (notified PDP) and 50 ha (Council Reply version) farm buildings would automatically fall as a restricted discretionary activity.

30.43 Therefore, I question the appropriateness of the use of the rule and standards for Farm Buildings within these activity areas, because farming is not the primary land use anticipated.

Whether the GSZ should be a Rural Sub Zone

30.44 The Panel also questioned the submitter's witnesses as to whether the zone could be provided for as a subzone and sit within the Rural Zone. I consider that this could have benefits in so far that any discretionary or non-complying activity would be subject to the Assessment Matters in Part 21.7, and there is more certainty as to the status of activities that the proposed GSZ chapter still remains silent on, such as informal airports, which is often an integral part of tourism and recreational activities.

30.45 Overall I consider that this would be a flawed approach and sets a poor precedent for further rezoning requests associated with resource consents because there are many resource consents granted in the Rural Zone that are complex, because of the sensitivity of the environment these activities are located within. The submitter's resource consent is not the first resource consent in the District by any means to offer compensatory components⁴⁶ that have resulted in conditions that are necessarily complex but, can be made even more complex if the consent holder seeks a departure from them. Alternatively, if the resource consent is used as a springboard for a substitute zone, that replaces the underlying presumption and level of

⁴⁶ For example RM010111 Walter Peak Corporate Trustees for 8 building platforms, visitor accommodation lodge and visitor accommodation buildings compensatory measures including the planting of 236,278 indigenous plants at Walter Peak, Queenstown.

protection in the existing provisions that are necessary and appropriate for section 6 matters.

30.46 The Rural Zone covers the majority of land in the District and I consider that it is important from a drafting perspective that, to the fullest extent possible, bespoke rules are not scattered throughout the Rural Zone activity and standard tables. If the Panel do consider accepting the submission but consider the provisions should be a sub zone of the Rural Zone, then I recommend a stand-alone policy framework and separate activity and standards table for these provisions.

30.47 Another alternative, is that there could be a statement in the clarification provisions at 44.4.2 that any discretionary or non-complying activity is subject to the Assessment Matters in Part 21.7 of the PDP, in particular Part 21.7.1 that apply to the ONL.

Overall recommendation

30.48 For the reasons set out above I maintain my opinion that the submission should be rejected because the policy and rule framework does not protect the ONL, and the proposed chapter does not provide sufficient certainty that the requested activities can be administered. If the Panel are of a view to accept the rezoning I also recommend the comments and suggestions taken into account are considered as part of any provisions the Council will be tasked to administer.

31. JEREMY BELL INVESTMENTS LTD (782) (JBIL)

31.1 I have considered the evidence and information provided at the hearing on 13 June 2017, and the additional information supplied by Mr Brown relating to acoustic attenuation (Exhibit 36) on behalf of the submitters.

31.2 I have also given further consideration to the comments made by the submitter and their witnesses with regard to the 30-40 year timeframe to fully develop the site as sought by the submission. Over this timeframe the development can be appreciated as being more

feasible and realistic in terms of justification for the overall growth of Wanaka and the airport. However I would be reassured if there was an evidence basis for the zone in terms of commercial land needs, and if the development aspirations or otherwise of the Queenstown Airport Corporation and their recent land purchase⁴⁷ are known.

- 31.3** I also reiterate there are outstanding matters relating to infrastructure and any necessary upgrades to facilitate connections would need to be planned as part of the Council's Long Term Planning processes.

Proposed Provisions

- 31.4** Mr Brown's recommended Rule 17.5.15 proposes to limit the anticipated gross floor area to 50% of the lot area, with non-compliances subject to a non-complying activity status. I consider that there should be a policy that directly links this resource management issue to that rule, and a framework to assess the adverse effects if the 50% limit is proposed to be exceeded. This is to provide better clarity that the rule is associated with the effects of traffic generation and the capacity of the Mt Barker Road/SH 6 intersection. Otherwise, the 50% gross floor area limit could be misconstrued as being primarily intended to manage other effects than traffic generation.
- 31.5** I consider that the proposed rule requiring that visitor accommodation complies with the sound insulation requirements would be appropriate.
- 31.6** In addition to the matter identified with the gross floor area rule (Rule 17.5.15), I consider that the proposed zone would benefit from additional policies where activities are unique or the context is different to the Wanaka Airport Zone within the existing Designation, that would assist decision makers with the outcome anticipated in the event resource consent is required.

47 Refer to Pat 26.7 of my Rebuttal evidence.

Precedent Issues

31.7 I remain concerned that this zone would create negative precedent issues associated with the proliferation of commercial activities, and also potentially lower the bar for residential development to establish on the western side of SH6, in particular the site on the northern side of Mt Barker Road. I also note that a submission was made by the Young Family Trust (704) for a similar submission seeking airport related infrastructure and visitor accommodation.

31.8 I did not address this submission in my Group 3 EIC, but made the following comments within Table in Appendix 1 to the Strategic Overview:

The decision of the Environment Court and High Court relating to commercial activities on this land should be upheld and visitor accommodation and airport zoning is not considered appropriate. The submission is not supported by any information a more detailed analysis has not been undertaken. The Rural Zone is the most appropriate zone.

31.9 While I did not provide a very detailed evaluation on this matter, the original submission was very brief, lacked any supporting information or context, and I note that no additional evidence has been filed in support of this submission. I am concerned that if the Panel accept the JBIL submission, despite the difference in evidence between the two, the Young Family could by way of appeal seek a similar zone.

31.10 I also note that the case is made for the JBIL rezoning based on managing the effects of the development on the immediate surrounds, and while this is important, I note that the submitter has readily adopted the recommended rules of the Wanaka Airport Zone that manages the proliferation of unrelated commercial activities⁴⁸ establishing at Wanaka Airport Zone. I consider that further investigations into the demand for ancillary activities and ensuring that any related commercial activities are ancillary to the airport and

do not undermine the viability of the Wanaka Town Centre and Three Parks business zones.

31.11 I also note that in her Reply for Chapter 17 (Airport Zone)⁴⁹ Ms Holden for the Council recommended that the rule limiting commercial activities across the zone to 1000m² is removed (Rule 17.5.14) because the gross floor area for airport related activities already exceeds 1000m² and that activities can be controlled by the rules and definitions that require commercial activities to be ancillary. Ms Holden has recommended retaining Rule 17.5.10 that limits any cafés, food and beverage facilities, retail activities and offices to 100m².

31.12 Although I understand Ms Holden's reasons for recommending the deletion of this rule, the fact that there is already over 1000m² of commercial or retail activities is cause for concern. In addition the absence of this rule in light of the JBIL and Young Family Trust submissions further increases my concern with the proliferation of commercial activities in this location under the guise of them being associated with and ancillary to the core activities of the airport, particularly where SH6 is located between the airport and these sites. I consider that a cap to assess the potential for incremental small activities having a cumulative effect on the viability of the Wanaka Town Centre and business zones, as originally recommended for the Wanaka Airport Zone is important.

31.13 My understanding from both Mr Brown and Mr Pages' appearances for JBIL at the hearing is that they readily accept the 1000m² cap be applied as part of assurances that activities would be genuinely associated with Wanaka Airport. Overall, I maintain my opinion that the submission should be rejected. If the Panel accept the JBIL submission I recommend they consider retaining Rule 17.5.14 as originally drafted by the Council.

49 Refer to Part 14. <http://www.gldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-8/Council-Right-of-Reply/QLDC-08-Business-Chapter-17-Rebecca-Holden-Reply.pdf>

32. JEREMY BELL INVESTMENTS LTD (802)

32.1 Ms Mellsop has addressed the Reply Minute's Question 5 (xxvi) as to whether the upper terrace proposed for Rural Lifestyle rezoning is open to the north when viewed from Smiths Road. Ms Mellsop's answer is that some parts of this upper terrace are open to the north when viewed from Smiths Road. Photographs 1-3 and Figure 1 of Ms Mellop's Reply illustrate this.

32.2 I maintain my opinion that the most appropriate zoning is Rural. I also refer to the above assessment as to the efficacy of the Rural Lifestyle Zone and expectations as to whether a landscape assessment would be required.

33. WAKATIPU HOLDINGS (314)

33.1 I have considered the plan (Exhibit 24) provided by Mr Geddes on 2 June 2017. While confirmation from the submitter's respective witnesses Ms Stevens and Mr Geddes of the proposed BRA is helpful, it reinforces both my and Ms Mellsop's opinion that the zoning is likely to be incompatible with the Rural Industrial Sub-Zone and that buildings would be clustered on the upper north-western terrace.

33.2 I maintain my opinion and recommend that the submission is rejected.

34. HEATHER PENNYCOOK (585), ROYAL FOREST AND BIRD PROTECTION SOCIETY (706)

34.1 Question 5 (xvi) of the Reply Minute provides:

As previously requested, can Mr Barr please advise what practical difference it would make to currently Rural Lifestyle Zoned properties at Makarora which have already been subdivided and either have an approved building platform or a constructed house thereon if they were downzoned to a Rural Zoning.

34.2 Where a development right is secured through a building platform, or a house is lawfully established, I do not consider there to be much

material difference. Both the Rural Lifestyle and Rural Zones permit the construction of residential buildings within approved building platforms,⁵⁰ and alterations to existing buildings not located within a building platform.⁵¹

34.3 The standards for buildings are also similar in terms of colour restrictions,⁵² and the bulk and location setbacks are also similar between the Rural Zone and Rural Lifestyle Zone.

34.4 The significant differences would come into play where landowners seek additional development outside any approved building platform. This would include the loss of any acknowledgement of a development right for subdivision or additional building platforms that is available through the Rural Lifestyle Zone⁵³, if the average density is 2ha is met, but there is no development right in the Rural Zone and the ONL assessment matters and policies in the Landscape Chapter come to the fore.

34.5 Question 5 (xvii) of the Reply Minute provides:

What comment does Mr Barr have on Ms Pennycook's information regarding the current path of (and hazard risk created by) the Makarora River in relation to the areas he has recommended be retained under a Rural Lifestyle Zoning.

34.6 At her appearance on 16 June 2017, Ms Pennycook tabled information⁵⁴ indicating that there was inundation and erosion of land from flooding events on the true left bank of the Makarora River, near the confluence of the Wilkin River, that affects land that is zoned Rural Lifestyle.

50 Rural Zone Rule 21.4.7 and Rural Lifestyle Zone Rule 22.4.3.1.

51 Rural Zone Rule 21.5.15.3 and Rural Lifestyle Zone Rule 22.4.3.2.

52 Rural Zone Rule 21.5.15 and Rural Lifestyle Zone Rule 22.5.1.

53 Refer to the discussion in part 3 above that sets out the Rural Lifestyle Zone subdivision provisions.

54 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Hearing-Stream-12/Evidence-Presented-at-Hearing/16-Wednesday-7-June-2017/S0582-Heather-Pennycook-T12-PennycookH-Submission.pdf>

34.7 I have interpreted the areas identified as being subject to flooding from Ms Pennycook's photographs and overlaid them on the annotated Planning Map from my EIC.⁵⁵

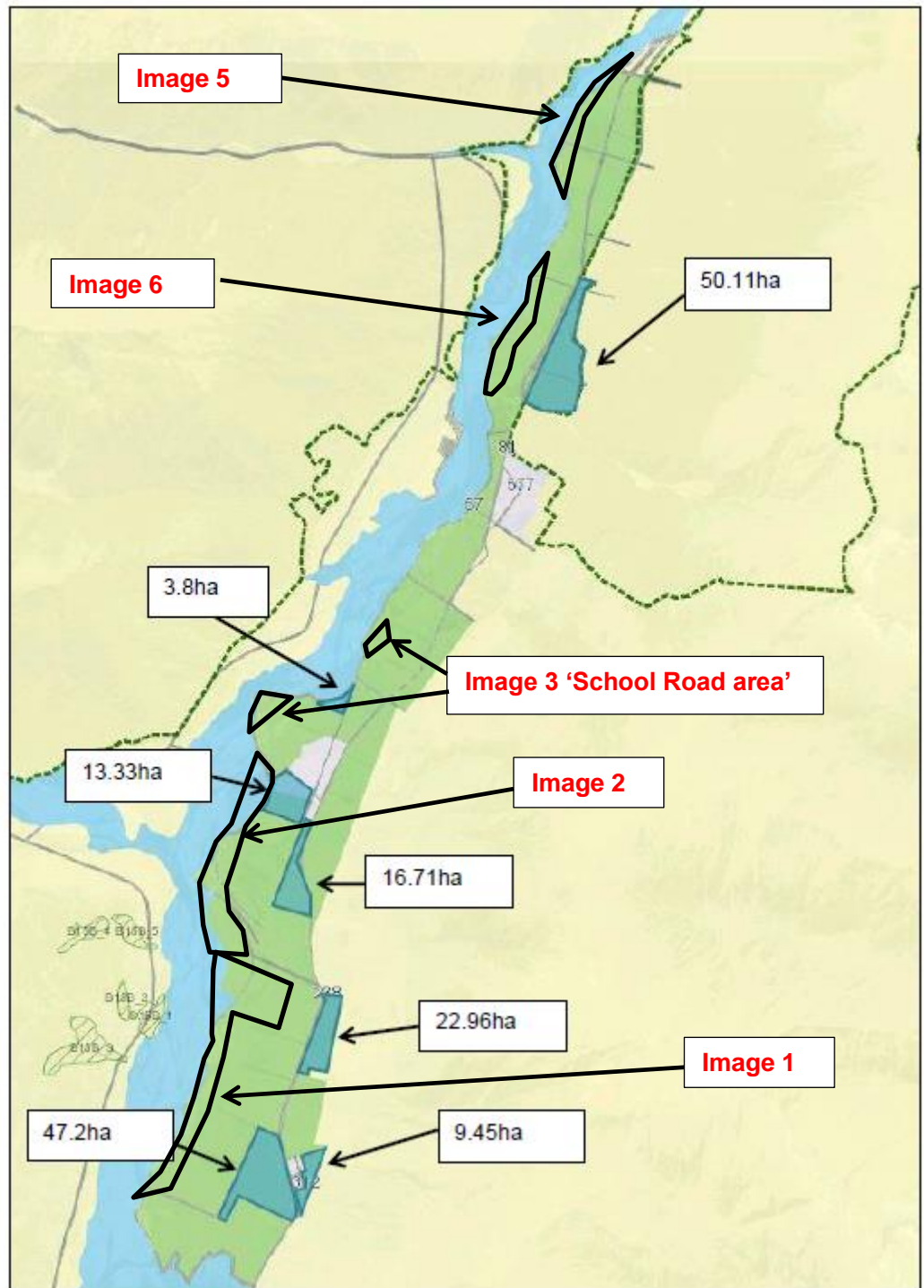


Figure 11. Excerpt of the areas recommended in my Group 3 Rural EIC to be retained as Rural Lifestyle, with the areas included. The black shapes with 'Image 1-6' are the areas identified in Ms Pennycook's information as being identified as subject to flooding.

55 Group 3: Rural. Appendix 1 Planning overview and consented area of the Makarora Rural Lifestyle Zone. Figure 2 (Page 6)

34.8 It is my opinion, based on the information provided by Ms Pennycook, that the areas she has identified as being particularly subject to flooding are within the areas that I recommended in my EIC to be rezoned to Rural. These are shown in Figure 11 above, and referenced as detailed in Ms Pennycook's evidence as Image 1, Image 2 and image 3.

34.9 In particular, a careful comparison of Figure 6 of Appendix 1 to my Group 3 Rural EIC, and Ms Pennycook's Image 2, being the 13.33ha area located adjacent to Wilken Road confirms that the area recommended to be retained as Rural Lifestyle zoning is not within the area identified by Ms Pennycook. Excerpts of the respective information are included below.

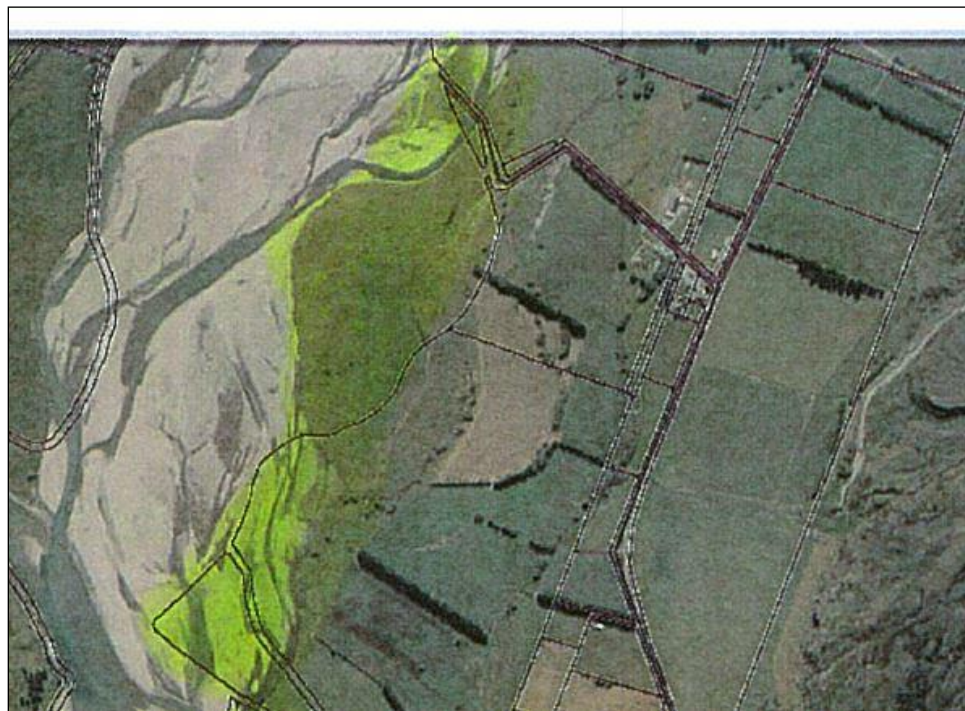


Figure 12. Excerpt of Image 2 of Ms Pennycooks information tabled on 16 June 2017.



Figure 13. Figure 6 from Appendix 1 of the Group 3 Rural EIC. The parcel area highlighted with the yellow outline is recommended to be retained. The shelterbelt and road alignment gives reference to the location of this in Ms Pennycook's information, as shown in Figure 12 immediately above.

34.10 On the basis of the above and consideration of Ms Pennycook's submission I maintain my recommendation of the extent of the Rural Lifestyle Zone to be retained as set out in Figure 2 of Appendix 1 of my Group 3 EIC.

35. JAMES COOPER (400)

35.1 Evidence filed by Mr Espie related to the location of the ONL/ONF in the vicinity of the Clutha River. Ms Mellsop has addressed this in her Reply Evidence and maintains her opinion as to the location of the ONL as set out in her Rebuttal evidence.

35.2 Question 5 (xxii) of the Reply Minute is:

The suggestion was made during the course of the presentation for Mr Cooper that SNA E 18B no longer exists. Does the Council have any information that would assist the Panel on this point?

- 35.3** The Council do not have any information that a resource consent has been obtained to clear this area, or that any clearance was considered a permitted activity. The Council's monitoring and compliance team are investigating.



Craig Barr
10 July 2017