



## QUEENSTOWN LAKES DISTRICT COUNCIL

### HEARINGS PANEL DECISION

#### PLAN CHANGE 13 – KIRIMOKO BLOCK WANAKA

HEARING HELD 8 & 9 NOVEMBER 2007

**SUBMITTED BY:** **PLAN CHANGE 13 HEARINGS PANEL:**  
Commissioner David W Collins  
Commissioner Leigh Overton  
Commissioner Gillian McLeod

**REPORT DATED:** **14 March 2008**  
**Ratified by Council:** **28 March 2008**

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### 1.0 INTRODUCTION

This Report discusses and makes recommendations to the Council on submissions received in relation to Plan Change 13 – Kirimoko Block. Although this Report is intended as a stand-alone document, a more in-depth understanding of the Plan Change, the process undertaken, and related issues may be gained by reading the Section 32 report and associated documentation prepared for Plan Change 13, publicly notified on 4 April 2007. This information is available on the Council website: [www qldc govt nz](http://www qldc govt nz)

The relevant provisions in the Queenstown Lakes District Council's Partially Operative District Plan which are affected by the Proposed Plan Change are:

<b>Plan Section</b>	<b>Provision</b>
5.3.3.4	Addition of (v) to non complying activities in the Rural General Zone
5.2	Addition of Objective 8 Building Line Restriction Area and policies 8.1-8.3
7.3.3	Addition of objective 4 and policies 6 and 7
15.1.2 viii	Addition of Issues – Appropriate Subdivision Wanaka
15.1.3	Addition of objective 7 and policies 7.1-7.9
15.2.3.3 (vii)	Addition of (vii) to the Subdivision, Development and Financial Contributions provisions
15.2.3.4 (vi)	Addition of (vi)
15.2.3.4 (vii)	Addition of a non complying activity rule regarding the requirement for walkways before any subdivision occurs.
Pg 1-59	Introduction of a structure plan within the District Plan
Maps	Amendment of District Plan map 20 to rezone the lower portion of the block to Low Density Residential Zoning and to place a building line restriction over the parts of the Kiriromo Block with landscape significance.

Submissions are assessed in groups based on issues raised where the content of the submissions is the same or similar.

In summarising submissions, the name of the submitter is shown in **bold**, with their submission number shown in normal font within square brackets. In summarising further submissions, the name of the further submitter is shown in **bold italics**, with their submission number shown in *italics* within square brackets.

Where there is any inconsistency between the provisions contained in Appendix 1 and amendments made by the recommendations of the hearings panel, then the provisions in Appendix 1 shall be considered correct.

## 2.0 BACKGROUND

The Queenstown Lakes District Council (the Council) has prepared a Plan Change to the Partially Operative District Plan for the lots within the area known as the Kiriromo block within Wanaka. The Kiriromo Plan Change block is located approximately 2 kilometres north of the Wanaka township and approximately 1 kilometre east of Lake Wanaka. The site is 58.57 hectares in area.

The site is currently zoned Rural General and is separated into 13 lots, all with approved residential building platforms. Only one site has been built on.

In 2002 the Council undertook a major community planning exercise for Wanaka entitled Wanaka 2020. This community planning exercise assisted the Council and the community in identifying and planning for the future growth of the Wanaka area. The area of land that is subject to this proposed Plan Change (the Kiriromo Block) was identified as suitable for urban expansion.

Further to Wanaka 2020 the Queenstown Lakes District Council and their consultants have undertaken a Wanaka Structure Planning exercise. The scope of this brief was to:

*"Undertake a study which investigates and makes recommendations as to the Future Zoning of Land (and the associated infrastructure issues) around the periphery of the existing urban area of Wanaka".*

The purpose of the study was to ensure that there is adequate land zoned for residential and other uses to cater for future growth. The key principles underlying the project are the appropriate and efficient use of land and infrastructure to enable growth; good urban design; protection of open space and landscape values; and the optimal rate of release of zoned land. This was adopted in draft in December 2004 and is now in the process of being finalised.

Kirimoko's proximity to additional residential zoned land, the town centre, schools, Anderson Heights areas and the ability to service it with appropriate infrastructure make the site ideal for rezoning to enable residential development. Consequently, the 2004 Structure Plan identified this land as future residential 'Phase 1'.

The Kirimoko Plan Change is unique in the sense that the block of land is owned by 13 separate owners but will be developed comprehensively following the change of zoning. This Plan Change also provides for the location of a Catholic School and a Church on Lot 1 of the block, and a site layout providing for an effective roading and public walkways network through the provision of a structure plan to be included within the District Plan.

As a result of Wanaka 2020, the Structure Planning Process and the Section 32 analysis (required under the Resource Management Act 1991) rezoning this land from Rural General to enable residential development is considered to be appropriate. Using the Low Density Residential Zone provisions already established in the District Plan is considered effective for most of the site, subject to additional rules and assessment matters to facilitate the implementation of the proposed structure plan and the continued growth of the Catholic School. The areas of the site that have been identified as sensitive in landscape terms (north eastern corner and eastern boundary) have been excluded from the Low Density Residential zoning, and given greater protection from future subdivision and development via a building line restriction.

Additional rules, policies and objectives have been created for the Kirimoko Block, which will promote improved design outcomes than can be achieved under the Low Density rules alone. The amenity of existing established dwellings along Rata Street has been protected by additional set backs for new buildings in the neighbouring new zones. In addition to these provisions there will be planted buffers, via a private agreement with adjoining landowners.

The proposed Plan Change also secures a walkway across the land from Aubrey Road to the Peninsula Bay Zone as well as providing 5% of the net developed area to a Community Housing Trust.

The Section 32 report concluded that the combination of low density zoning plus additional controls for the Kirimoko Block will result in a zone that enables development that is sensitive to its surrounds and fits into the existing fabric of Wanaka. The area of land that is sensitive because of its topography and landscape characteristics is protected by a building line restriction so that further development does not compromise that landform.

71 submissions were made to this Plan Change. A hearing was held on the 8<sup>th</sup> and 9<sup>th</sup> of November 2007 at the Grand Mercure Oakridge Hotel, Wanaka.

### 3.0 LIST OF SUBMITTERS

Original Submitters	Submission #
Iris Abaecherli	13/1/1
Donna Allen	13/2/1
Allenby Farms	13/3/1 – 13/3/7
Barry Andrews	13/4/1 & 13/4/2
Aubrey Road Developments	13/5/1
Peter and Annette Barrow	13/6/1
David Barton	13/7/1

Mylrea Bell	13/8/1
Libby Blackley	13/9/1
Simon Bowde	13/10/1
Neil Buchanan	13/11/1
Carter Phil	13/12/1
Churwood Investments Limited	13/13/1
Coastal Land Holdings Limited	13/14/1 – 13/14/5
Stephen Collie	13/15/1 – 13/15/7
David Crawford	13/16/1
Jeremy Culpitt	13/17/1
Mathew Davidson	13/18/1
Gerald Davies	13/19/1
Adam Donney	13/20/1
Eadie Lee	13/21/1
Katherine Eustace	13/22/1
Tarn Felton	13/23/1
Fitzgerald/Barton	13/24/1
Rosie Futschek	13/25/1
Shaun Gilbertson and Ann-Louise Stokes	13/26/1
Jenny Grace	13/27/1
Willem Groenen	13/28/1
Joanna Guest	13/29/1
Myran Hagenfeldt	13/30/1
Joanna Hayward	13/31/1
Alistair Heine	13/32/1
Tim Hudson	13/33/1
Thierry Huet	13/34/1
Michel Hughes	13/35/1
Stephen Hughes	13/36/1
Infinity Investments Group Holdings Limited	13/37/1 – 13/37/6
Neill Kerr	13/38/1
Kirimoko Investments Limited	13/39/1
Lake Wanaka Cycling Inc	13/10/1 & 13/40/2
Fredrik Larsson	13/41/1
Laura Larsson	13/42/1
Matthew Lewis	13/43/1 & 13/43/2
Sarah Macnab	13/44/1
John May	13/45/1
Bruce McGechan	13/46/1
Andrew McLeod	13/47/1
Dan McMullan	13/48/1
RH Millar	13/49/1
Alistair Munro	13/50/1 – 13/50/14
New Zealand Fire Service	13/51/1
Ray O'Brian	13/52/1
Chris Riley	13/53/1
Davie Robinson	13/54/1
Mary-Louise Schroder	13/55/1
Jo Seden	13/56/1
Nikki Shaw	13/57/1

Jeremy Shearer	13/58/1
Ben Taylor	13/59/1
Dennis Thorn	13/60/1 – 13/60/5
Chris Tubb	13/61/1
Lucan Waite	13/62/1
Jon Watts	13/63/1
Scott West	13/64/1
Megan Williams	13/65/1
Ben Wilson	13/66/1
Todd Windle	13/67/1
Jessica Winter	13/68/1
Andy Woods	13/69/1
Finlay Woods	13/70/1
Patricia Wrigley	13/71/1
<hr/>	
Further Submitters	Further Submission #
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David Barton	13/50/3/2, 13/50/5/2, 13/50/7/2, 13/50/8/2, 13/50/9/2, 13/50/10/2, 13/50/11/2, 13/50/12/2, 13/50/13/2,
Kirimoko Investments	13/1/1/1, 13/2/1/1, 13/3/1/1, 13/3/2/1, 13/3/2/2, 13/3/3/1, 13/3/4/1, 13/3/5/1, 13/3/6/1, 13/3/7/1, 13/4/1/2, 13/4/2/1, 13/6/1/1, 13/8/1/1, 13/9/1/1, 13/10/1/1, 13/11/1/1, 13/12/1/1, 13/14/1/1, 13/14/2/1, 13/14/3/1, 13/14/4/1, 13/14/5/1, 13/15/1/1, 13/15/2/1, 13/15/3/1, 13/15/4/1, 13/15/5/1, 13/15/6/1, 13/15/7/1, 13/17/1/1, 13/18/1/1, 13/19/1/1, 13/20/1/1, 13/21/1/1, 13/22/1/1, 13/23/1/1, 13/24/1/1, 13/25/1/1, 13/26/1/1, 13/27/1/1, 13/28/1/1, 13/29/1/1, 13/30/1/1, 13/31/1/1, 13/32/1/1, 13/33/1/1, 13/34/1/1, 13/35/1/1, 13/36/1/1, 13/37/1/1, 13/37/2/1, 13/37/3/1, 13/37/4/1, 13/37/5/1, 13/37/6/1, 13/38/1/1, 13/40/1/2, 13/40/2/2, 13/41/1/1, 13/42/1/1, 13/43/1/1, 13/43/2/1, 13/44/1/1, 13/46/1/1, 13/47/1/1, 13/48/1/1, 13/49/1/1, 13/52/1/1, 13/53/1/1, 13/54/1/1, 13/55/1/1, 13/56/1/1, 13/57/1/1, 13/58/1/1, 13/59/1/1, 13/60/1/2, 13/60/2/2, 13/60/3/2, 13/60/4/2, 13/60/5/2, 13/61/1/1, 13/62/1/1, 13/63/1/1, 13/64/1/1, 13/65/1/1, 13/66/1/1, 13/67/1/1, 13/68/1/1, 13/69/1/1, 13/70/1/1, 13/71/1/1
Alistair Munro	13/4/1/1, 13/7/1/1, 13/16/1/1, 13/24/1/1, 13/40/1/1, 13/40/2/1,
Scott Murray	13/50/1/1, 13/50/2/1, 13/50/3/1, 13/50/4/1, 13/50/5/1, 13/50/6/1, 13/50/7/1, 13/50/8/1, 13/50/9/1, 13/50/10/1, 13/50/11/1, 13/50/12/1, 13/50/13/1, 13/50/14/1,
Upper Clutha Environmental Society	13/60/2/3, 13/60/3/3, 13/60/4/3, 13/60/5/3,
John May	13/60/1/1, 13/60/2/1, 13/60/3/1, 13/60/4/1, 13/60/5/1

#### 4. THE HEARING – SUMMARY OF EVIDENCE AND SUBMISSIONS:

The following is a summary of the presentations made by, or for, the summitters at the hearing:

**Thursday 8 November**

**Kirimoko Group**

Ms Pru Steven (Legal Counsel) presented the Kirimoko Group's (the landowners) case including the background of the Plan Change. She then made comments on a number of submissions made to the Plan Change. She presented arguments to support the Group's position that Rural General as the underlying zoning for the landscape protection area is the most appropriate zoning. She also illustrated why it was not feasible to include and rezone other areas of land within the vicinity of the Kirimoko block via the submission process.

Mr Ralph Kruger (Registered Landscape Architect) presented the basis behind his landscape treatment for the Kirimoko block – he anticipated that lots could be developed in such a way that green techniques of stormwater treatment can be utilised. He presented the rationale for his support of the Council's landscape line (where low density development ends and the area protected from development is created). In response to questions from the panel he discussed landscape treatment of the area that is inappropriate for development (such as the use of a management plan that all owners adhered to), as well as suggesting that the Council buy the land and form a reserve in the future when funds allow.

Mr Kruger recommended two options for the area of landscape significance:

- Rural General zoning with additional controls or
- A more flexible approach to Open Space zoning with additional rules to lessen controls.

Mike Garland (Planner) of Robson Garland presented his evidence for the Kirimoko Group:

Mr Garland recommended that Rural General zoning was preferable to Open Space zoning for the area of landscape significance. Open Space zoning would give the wrong impression to the public in terms of access as the area would remain in private ownership. Mr Garland also suggested that additional controls be added to the Rural General area such as QEII covenants.

**Vanessa Walker and Quentin Smith on behalf of Coastal Land Holdings**

**Quentin Smith on behalf of Allenby Farms**

Submissions were presented on the Council's ability to add the land owned by Coastal Land Holdings and Allenby Farms to the Plan Change via the submission process. The submitters quoted the example of the Council's Jack's Point variation where the Henley Downs and Homestead bay land was added to the variation via the submission process. The submitters maintained that there was a need for additional zoning as illustrated in the Wanaka 2020 process, they felt that a comprehensive review of the entire area was needed and that it was inappropriate to deal with the Kirimoko Plan Change in isolation of surrounding development.

Mr Smith raised the need for road access to the Allenby Farms and Coastal Land Trust Holdings land and stated that this would have limited landscape effect, he also considered Open Space Zoning along the eastern boundary was preferable to Rural General zoning.

**Julian Howarth, Upper Clutha Environmental Society**

Mr Howarth was of the opinion that the community was getting very little from the Plan Change and that it was very important that there was no development in the area of landscape significance as it is a highly visible area.

**Barry Andrews – Landowner at Peak View Ridge**

Mr Andrews told the panel that the Kirimoko Block was supported within the Wanaka 2020 planning process and should be provided for first. He stated that any additional road access that needed to access future zonings need to be accessed off Aubry Road as opposed to through the Kirimoko Block. In terms of additional walking tracks servicing the potential development to the north of the Kirimoko Block it was important to remember that the purpose of a walking track was to get access from one area to another and at present there are no existing tracks on Allenby farms land to warrant connections to. Mr Andrews made suggestions to the panel on development within the Kirimoko Plan Change area.

### **John May – Landowner**

Mr May requested that the submission by Peninsula Bay be dismissed as in his view it was driven by commercial interests as opposed to good resource management practice. Mr May considered that cohesive management of the land above the landscape lane is required and can be achieved through the Plan Change. The proposed green network within the Plan Change should be considered the same way as the roading network and that rule 15.2.3.4 should be extended to include the green network.

Mr Cutler (Landscape Architect) spoke for his client and illustrated that the development could be serviced by “green” subdivision techniques – especially for the provision of stormwater treatment. Mr Cutler was concerned that if the Council rigorously applied its standard roading standards the site may be compromised in terms of landform and topography.

### **Friday 9 November**

#### **Jess Townsend and Simon Williams – Lake Wanaka Cycling**

Ms Townsend commenced by outlining that she moved to Wanaka because of the mountain biking available in the area which currently operates as a result of the goodwill of the landowners and she thanked the Kirimoko owners on behalf of the Lake Wanaka Cycling group.

Ms Townsend added that their group currently has 120 paid members and that 50 new members had recently joined giving an indication of the growth and interest in this recreational activity. Ms Townsend highlighted that there is currently three key areas in Wanaka for mountain biking, one of which is ‘Sticky Forest’ and the future of all three areas is uncertain.

Mr Williams also outlined that he had moved to Wanaka for the high quality biking available in this area and recommended that ‘Sticky Forest’ be vested as a recreational reserve to ensure mountain biking there in perpetuity. He added that such lifestyle opportunities bring huge numbers of visitors and a significant number of people to live in Wanaka and that these people provide a valuable contribution to the area. He added that the Kirimoko block is suitable for all levels of mountain biking from experienced bikers to young families and that mountain biking in Wanaka provides economic as well as social benefits for the area.

Mr Williams recommended that the 8.7 ha of forest should be vested in QLDC and noted that this proposal is supported by the Wanaka Community Board. He added that the 2002 Parks Strategy is currently being revised and that the new Strategy will list this as an objective.

#### **Tony Horder on behalf of Denis Thorne**

Mr Thorne would like to see the future of the walkway protected in the rules as the submitter is concerned about the Council abandoning its commitment to the walkway, he is also in favour of Open Space Zoning as buildings would be a prohibited activity. The submitter is also happy for the confirmation of the location of the tributary walkways to be confirmed during the resource consent process. After some consideration with his client Mr Horder conveyed to the panel that Rural General zoning would be appropriate provided that buildings were a prohibited activity.

#### **Robert McGill on behalf of Aubury Road developments, GAD Limited and Tuatara Trust representing the owners of Lots 3, 4 and 5 of the Kirimoko Block.**

Mr McGill (legal counsel) Mr Dan Curley (Planner) and Mr Steven Quinn presented the following arguments to the hearings panel:

That the landowners supported the rezoning of the land from Rural General to Low Density Residential Zoning, though they oppose the building line restriction as they consider that it is excessive on their lots and does not protect sensitive landforms. The owners also believe that the walkway is too narrow and reduces the area of private land available to be used by owners. The landowners prefer an additional suite of rules in relation to their land including; a 20 metre strip on the eastern boundary that allows for residential allotments no smaller than 2,000 square metres in area on Lots 3, 5 and 5, a 20 metre

building restriction line from the eastern boundary, and all houses in the first row should be restricted to 5.5 metres in height.

Mr Quinn presented landscape analysis and a number of photos of the site from various view points in Wanaka and argued that the Council's landscape line would be ineffective for lots 3,4 and 5, partly because of the presence of the existing houses on Peak View ridge.

The following section lists the submissions, comments and recommendations of the hearings panel.

## 5.1 ACCEPT THE PLAN CHANGE IN ITS ENTIRETY

The following submitters support the Plan Change, and request that the Plan Change be accepted in its entirety:

**Aubrey Road Developments [13/5/1], Churwood Investments Limited [13/13/1], John May [13/45/1] New Zealand Fire Service [13/51/1] Kirimoko Investments [13/39/1]** (whose submission includes that the Plan Change include but not be limited to the location of the building restriction line).

### 5.1.1 Explanation

This plan change has been prepared over a number of years by the Council and takes into account the following:

- The landscape of the area subject to the Plan Change as well as the wider landscape;
- The ability to form a common roading and development structure for 13 different but adjoining landowners to assist with comprehensive planning over time;
- The ability of the proposed plan change to be serviced by Council infrastructure;
- The protection of significant landscape characteristics of the site, especially that relating to the spurs surrounding the Kirimoko Block.

It has been very positive for the Council to undertake this project with the cooperation and assistance of all landowners; this has resulted in a formation of a structure plan for access and roading, contained within the proposed plan and to create an additional access to the adjacent Peninsula Bay residential zone.

### 5.1.2 Consideration

The Plan Change seeks to achieve the rezoning of Rural General Zoning to Low Density Residential Zoning and an area of landscape sensitivity is to be protected via a building line restriction. This will enable zoning of the Kirimoko Block to be consistent with adjacent zoning within the Wanaka residential area.

This decision makes a number of changes to the proposed plan change to strengthen the provisions as notified and to provide clarity over time as the decision is implemented through resource consents.

The panel heard from lot owners John May and his consultants on how the proposed plan change can contribute to good quality subdivision and development.

### 5.1.3 Recommendation

That the submissions requested by **Aubrey Road Developments [13/5/1], Churwood Investments Limited [13/13/1], John May [13/45/1] New Zealand Fire Service [13/51/1] Kirimoko Investments [13/39/1]** are accepted in part, the part in which they supported the plan change as it is notified, the parts that are rejected relate to the changes that are recommended in this report.

### 5.1.4 Reasons

- The Plan change is important in that it defines for the future the zoning of an island of Rural General zoning within the Wanaka urban environment.
- The plan change promotes a reasoned approach for zoning within the Kirimoko Block. Zoning is restricted to areas of the block where it can be absorbed while areas of landscape significance are protected from development.

- While the Plan Change promotes a positive outcome for the area of land, as outlined in the submissions there are areas of the rules, policies and objective framework that can be strengthened within the Plan Change, it is appropriate that these are remedied.

## 5.2 AREA WIDE RESOURCE STUDY/REZONING OF ADJACENT LAND

**Coastal Land Trust Holding Limited** [13/14/1, 13/14/2, 13/14/3, 13/14/4, 13/14/5] submit that:

- The Council should undertake an Area Wide Resource Study of the area bounded by Peninsula Bay, Rata Street, Aubrey Road, Clutha River and the State Highway at Albert Town to provide the Council, community and landholders in the vicinity with objective resource information for the area, including a review of existing and potential uses, an analysis of current planning policies, and guidelines for the ongoing management and development of the area with particular regard to landscape and ecological values, roading, public access, reserve, recreation, services and infrastructure. [13/14/1]; and
- That the proposed zone boundaries be amended so that the extent of the proposed zone boundaries and proposed plan provisions (including objectives, policies and rules) provide for the inclusion of the submitters land (and other relevant land holdings) and to provide for activities on that land as outlined in an integrated manner. [13/14/2]; and
- A greater level of integration with adjoining land use be achieved, subject to the findings of the Area Wide Resource Study [13/14/3]; and
- That the consent authority make such further additional, amended or consequential changes to any relevant parts of the District Plan as are considered necessary to address the issues and concerns raised in this submission [13/14/4]; and
- That the Plan Change be withdrawn or is not progressed until a detailed and comprehensive Section 32 planning analysis has been carried out which considered appropriate provisions for the integration of the submitters land with the Kiriromoko land [13/14/5].

These submissions are **opposed** by the **Kiriromoko Group** [13/14/1/1], [13/14/2/1], 13/14/3/1], 13/14/4/1], 13/14/5/1].

**Allenby Farms** [13/3/1], [13/3/2], [13/3/3], [13/3/4], [13/3/5], [13/3/6], [13/3/7] submit that:

- The Council should include a roading and pedestrian network that will include land-use of adjoining land (as illustrated within the Draft Wanaka Structure Plan) to integrate with existing development.
- To reconsider the inclusion of Open Space building restriction, as illustrated on the Kiriromoko Structure Plan.
- That the Council undertake an Area Wide Resource Study of the area bounded by Peninsula Bay, Rata Street, Aubrey Road, Clutha River and the State Highway at Albert Town, to provide the Council, Community and landowners in the vicinity with objective resource information for the area, including a review of existing and potential uses, an analysis of current planning policies, and guidelines for ongoing management and development of the area with particular regard to landscape and ecological values, roading, public access, reserve, recreation and services and infrastructure.
- That Plan Change 13 be amended so that the extent of the proposed zone boundaries and proposed plan provisions (including objectives, policies and rules) provide for the inclusion of the submitters land (and other relevant land holdings) and to provide for activities on that land as outlined above in an integrated manner.
- That a greater level of integration with adjoining land use be achieved subject to the findings of the Area Resource Study.
- That the consent authority make such further, additional, amended or consequential changes to any relevant part of the District Plan as are considered necessary to address the issues and concerns raised in this submission.
- That the consent authority make such further, additional, amended or consequential changes to any relevant part of the District Plan as are considered necessary to address the issues and concerns raised in this submission.
- That the Plan Change be withdrawn or it is not progressed until a detailed and comprehensive section 32 planning analysis has been carried out which considers appropriate provisions for the integration of the submitters land with the Kiriromoko land.

The submissions points by Allenby Farms are **opposed by Kirimoko Investments** [13/3/1/1, 13/3/2/2], 13/3/3/1], [13/3/4/1], [13/3/5/1], 13/3/6/1], [13/3/7/1] Submission point 13/3/2 was **opposed** by **Alistair Munro** [13/3/2/1]

**Shaun Gilbertson and Ann-Louise Stokes** [13/26/1] submit that the Council needs to consider all of the land surrounding the Kirimoko development, which includes the land bounded by Aubrey Road and the Clutha River, towards Albert Town in regards of future development, services and amenities. This should be addressed under Section 32 and included in the Plan Change. It would be prudent to be addressed under Section 32 and included in the Plan Change for the coherent development of the area.

This submission is opposed by **Kirimoko Investments** [13/26/1/1].

### 5.2.1 Explanation

#### Coastal Land Trust Holdings Ltd

Coastal Land Trust Holding Ltd submits that the Plan Change is not appropriate in its current form as it is submitted that the Section 32 analysis should thoroughly assess the compatibility of the proposal with the surrounding landuse in terms of amenity, transport linkages, recreational opportunities and open space.

The submitter believes that the process adopted for the Jacks Point Variation in Queenstown provided a precedent and should be followed in this situation. This is considered necessary in order to achieve the requirements of Part 5 of the Act and undertake a thorough Section 32 analysis.

It is submitted that the District has a limited supply of land suitable for growth and development. Increasing growth pressures on that limited land resource has and will result in increased land prices which adversely affect the ability of residents and visitors to provide for their social and economic wellbeing in terms of access to residential accommodation and commercial/retail opportunities. The submitter seeks to provide for a more efficient use of limited resources and considers that the land around the Kirimoko land, including the submitters land [Lots 35 and 39 Deposited Plan 371470] should be assessed under section 32 and included in the Plan Change to achieve comprehensive development. The Council has previously identified both the Kirimoko land and the submitter's land as appropriate for development.

The submitter seeks that Plan Change 13 should be amended to integrate Lots 65 and 69 (and any other suitable land) with the land currently subject to Plan Change 13. Those amendments should include the provision of an outline development plan specifying particular locations for a range of activities, including residential, commercial, retail activities and open space. All of these activities need to be integrated within Plan change 13.

The addition of the submitters land and other land holdings to Plan change 13 would achieve the outcomes sought by the Part 7 – Residential areas and Part 4 – District wide objectives and policies with relation to urban growth. These include but are not limited to:

- Encouraging development in those areas with a greater ability to absorb it and to harmonise with topography
- Providing an integrated approach to transport linkages, open spaces, recreation linkages and infrastructure
- Enable new residential areas to meet the anticipated future demand
- Limited urban growth to those areas identified within the growth boundary.

#### Allenby Farms Limited

Allenby Farms Limited submits that the proposed road and pedestrian network has failed to consider the future zoning and expected use of the land adjoining the Kirimoko block. As the land owned by Allenby Farms (located to the East of the Kirimoko Block) has been designated under the Proposed Wanaka Structure Plan as "Proposed Future Urban Overlay Zone", it would seem logical to provide the Kirimoko block with road and walkway linkages that extend to the boundaries of adjoining land. This will in turn allow for the development of future road and pedestrian linkages that can successfully

knit with existing residential development. Allenby Farms submit that the proposed Kirimoko Structure Plan is not consistent with the following policies and objectives:

#### *Section 15 – Subdivision Development and Financial Contributions*

*Objective 1: The provision of necessary services to subdivided lots and developments in anticipation of the likely effects of land use activities on those lots and within the developments.*

##### *Policy 1.3*

*To achieve the provision of pedestrian, cycle and amenity linkages, where useful linkages can be developed.*

*The environmental resulted that are anticipated when developing land in line with the above objective and policy are:*

- (i) A safe and efficient roading network;
- (ii) Safe, convenient access to and from subdivided lots;
- (iii) Enhanced and extended patterns of vehicular, cycle and pedestrian and linkages; and
- (iv) A pattern of subdivision consistent with planned density, roading patterns and open-space requirements appropriate in existing and proposed residential environments.

With consideration of the above objective and related policy the submitters believe that any Kirimoko roading and pedestrian network should be configured to integrate with possible future zoning and/or expected land use of adjoining land (specifically the 38ha owned by Allenby Farms Ltd).

In relation to the Open Space (no build area) it is submitted that the restriction fails to consider the large prominent dwellings that have been constructed on Peak View Ridge, and that these buildings have made the landscape intentions of the Open Space area impossible to achieve and will prove ineffective.

**Shaun Gilbertson and Ann-Louise Stokes [13/26/1]** concerns are similar to that of Coastal Land Holdings Limtied and Allenby Farms Limited in that they consider additional land should be considered as part of this Plan Change.

#### **5.2.2 Consideration**

The short response to these submissions is that the panel considers there is no jurisdiction to include other large adjoining or nearby properties in the re-zoning. This is because the public notification of this plan change specifically referred to re-zoning the "Kirimoko block". Members of the public reading that public notice would not have been alerted to the possibility that other areas of land could also be rezoned as part of the process. As noted above, that view of jurisdiction is disputed by some submitters however so we will also discuss the merits of re-zoning the additional areas.

The need to ensure comprehensive analysis of the existing and future land uses in the area surrounding the land subject to this Plan Change is supported, and it is believed that this has been achieved through the significant amount of work undertaken by the Council through Wanaka 2020 and the Wanaka Structure Plan processes.

The Structure Plan in particular considers the Wanaka area as a whole, identifying potential recreational linkages and green spaces, in addition to potential development areas, to meet projected growth, servicing issues, and staging. While it is acknowledged that this was undertaken on a much broader scale than the Coneburn Study, it is envisaged through the Structure Plan that those detailed analyses will be undertaken at the plan change stage, concentrating on the subject site, but also considering its relationship to other neighbouring sites, and the overall objectives for Wanaka.

Kirimoko Block is contained between established Low Density Residential Zones and is contained within its own landscape catchment. It is believed that for these reasons, it is in fact geographically contained. Linkages between the site and its surrounds have been ensured through the provision of key walkway linkages through the site and to neighbouring walkways, and the provision a key road linkage to Peninsula Bay, ensuring that the development of the site relates well to its surroundings. The Rural General and Rural Residential Zones to the north of the subject site are outside of the scope of this Plan Change and are to be assessed as required through the Wanaka Structure Plan

process. The panel considered that the Wanaka Structure Plan process was a better method of promoting additional zoning requirements to meet future growth needs for Wanaka. They considered rezoning additional land through the Kirimoko Plan Change process would be inconsistent with this process.

To create roading connections through the area of building line restriction would require significant earthworks and may in turn promote the use of this area for development. As part of this Plan Change an additional access to Peninsula Bay residential zone has been provided, as well as a walkway easement providing a connection from Scurr Heights to Peninsula Bay. The panel considered roading patterns through the area and were presented a diagram showing possible cut and fill necessary to create a road to service land beyond the Kirimoko Block. However, the panel did not feel that the roading connections to that area of land was best considered through this Plan Change process and that the designation of roads identified through the Wanaka Structure Plan process will achieve a better result. As the zoning of the land to the north of the Kirimoko Block has not yet been confirmed it would be inappropriate to predetermine that by planning for a connector road from the adjoining Kirimoko Block.

The panel considered the submitters who argued that as development was already of a scale along the ridgeline that further protection was unnecessary and would have limited if any effect. It was acknowledged that the existing houses on Peak View Ridge have a dominant impact on the Kirimoko Block, but as stated within the reports by the landscape architects who have studied this area in detail it is accepted that it would not be appropriate to further compromise the spurs within the block by building upon them. As such, this Plan Change seeks to protect the spur as an enclosing amphitheatre and this is supported by the panel.

The panel acknowledged the long process undertaken in preparing the Plan Change, a primary factor in this was the sensitivity of the landscape in question and the ability of additional residential development to be subservient to this landscape. As shown through the Structure Plan process and the Council's Dwelling Capacity analysis there is sufficient zoning to meet anticipated future demand in appropriate locations, accordingly, allowing sensitive landscapes to be compromised by development is not considered appropriate or required.

In summary, the Section 32 analysis focuses on the site itself, but in light of the surrounding landscape and land uses, and its relationship to the Wanaka town and surroundings. The panel believes that the analysis undertaken is robust and that further studies are not necessary for the purposes of completing and adopting this Plan Change.

### 5.2.3 Recommendation

That the submissions of **Coastal Land Trust Holding Limited** [13/14/1, 13/14/2, 13/14/3, 13/14/4, 13/14/5] **Allenby Farms** [13/3/1], [13/3/2], [13/3/3], [13/3/4], [13/3/5], [13/3/6], [13/3/7] and **Shaun Gilbertson and Ann-Louise Stokes** [13/26/1] and further submissions by **Alistair Munro** [13/3/2/1 are rejected, and that the further submissions by **Kirimoko Investments** [13/3/1/1, 13/3/2/1, 13/3/3/1, 13/3/4/1, 13/3/5/1, 13/3/6/1, 13/3/7/1], [13/14/1/1], [13/14/2/1], [13/14/3/1], [13/14/4/1], [13/14/5/1], [13/26/1/1] are accepted.

### 5.2.4 Reasons

As discussed under 5.2.2 above, it is considered that there is no jurisdiction to include and re-zone substantial areas beyond the Kirimoko block as part of this plan change.

The Section 32 analysis for this Plan Change builds on the comprehensive work of the Wanaka 2020 and Wanaka Structure Plan processes. This Plan Change is ranked as a 1<sup>st</sup> stage of Plan Changes to achieve the outcomes of the 2004 Wanaka Structure Planning process. For these reasons, further studies are not considered necessary.

Any further Plan Changes that arise out of the Structure Planning will be subject of a full Section 32 analysis, confined to the area of land subject of the Plan Change. At that stage the impact that future development will have on services such as reserves and infrastructure will be assessed.

It would be inappropriate for the Council to include a road way through the Kirimoko Block to the Rural General zoned land beyond. This in turn could potentially give an assumption that that land could be developed, as opposed to the testing the appropriateness of developing that land through a Section 32 analysis. If required, a road can be designated by the Council and agreement made with landowners in the future, however some care will need to be taken in the formation of the road and that the respective cut and fill involved in the earthworks to construct the road may in fact compromise the landscape.

### 5.3 WALKWAY AND RESERVE ISSUES

Submitters **Donna Allen** [13/2/1], **Peter and Annette Barrow** [13/16/1], **Mylrea Bell** [13/8/1], **Libby Blackley** [13/9/1], **Simon Bowden** [13/10/1], **Neil Buchanan** [13/11/1], **Phil Carter** [13/12/1], **Jeremy Culpitt** [13/17/1], **Mathew Davidson** [13/18/1], **Gerald Davies** [13/19/1], **Adam Dooney** [13/20/1], **Lee Eadie** [13/21/1], **Katherine Eustace** [13/22/1], **Tarn Felton** [13/23/1], **Rosie Futschek** [13/25/1] **Jenny Grace** [13/27/1], **Willem Groenen** [13/28/1], **Joanna Guest** [13/29/1], **Myran Hagenfeldt** [13/30/1], **Joanna Hayward** [13/31/1], **Alistair Heine** [13/32/1], **Tim Hudson** [13/33/1], **Thierry Huet** [13/34/1], **Michael Hughes** [13/35/1], **Stephen Hughes** [13/36/1], **Neil Kerr** [13/38/1], **Fredrick Larsson** [13/41/1], **Laura Larsson** [13/42/1], **Sarah Macnab** [13/44/1], **Bruce McGechan** [13/46/1], **Andrew McLeod** [13/47/1], **Dan McMullan** [13/48/1], **RH Millar** [13/49/1], **Ray O'Brian** [13/52/1], **Chris Riley** [13/53/1] **Davie Robinson** [13/54/1], **Mary-Louise Schroder** [13/55/1], **Jo Sedon** [13/56/1], **Nikki Shaw** [13/57/1], **Jeremy Shearer** [13/58/1], **Ben Taylor** [13/59/1], **Chris Tubb** [13/61/1], **Lucan Waite** [13/62/1], **Jon Watts** [13/63/1], **Scott West** [13/64/1], **Megan Williams** [13/65/1], **Ben Wilson** [13/66/1], **Todd Windle** [13/67/1], **Jessica Winter** [13/68/1], **Andy Woods** [13/69/1], **Finlay Woods** [13/70/1], **Patricia Wrigley** [13/71/1] seek that the Plan Change be approved subject to allocation of the open space (no build areas) in the public open space (vested in Council) with specific provision for mountain bikes trails and that appropriate trail heads and access points be included in the proposal.

**Kirimoko Investments** [13/2/1/1], [13/6/1/1], [13/8/1/1], 13/9/1/1], [13/10/1/1], [13/11/1/1], [13/12/1/1], [13/17/1/1], [13/18/1/1], [13/19/1/1] [13/20/1/1], [13/21/1/1], [13/22/1/1], [13/23/1/1], [13/25/1/1], [13/27/1/1], [13/28/1/1], [13/29/1/1], [13/30/1/1], [13/31/1/1], [13/32/1/1], [13/33/1/1], [13/34/1/1], [13/35/1/1], [13/36/1/1], [13/38/1/1], [13/41/1/1], [13/42/1/1], [13/44/1/1], [13/46/1/1], [13/47/1/1], [13/48/1/1], [13/49/1/1], [13/52/1/1], [13/53/1/1], [13/54/1/1], [13/55/1/1], [13/56/1/1], [13/57/1/1], [13/58/1/1], [13/59/1/1], [13/61/1/1], [13/62/1/1], [13/63/1/1], [13/64/1/1], [13/65/1/1], [13/66/1/1], [13/67/1/1], [13/68/1/1], [13/69/1/1], [13/70/1/1], [13/71/1/1] oppose these submissions on the basis that the no build areas is private land and Kirimoko Investments understand that the Council is unwilling to purchase it as a reserve and lot holders will not vest it without compensation and some may not agree to part with the land even with compensation. Kirimoko Investments seek that the walkway should be graded as an easy pedestrian track to follow on from the Council walkway on the other side of Aubrey Road.

**Iris Abaecherli** [13/1/1/1] seeks that landscape protection is very important and that no buildings, roads, developments or future plan changes and that Sticky Forest should be vested in the Council as a recreation reserve. This submission was opposed by the **Kirimoko Group** [13/1/1/1]. **Lake Wanaka Cycling Inc** [13/40/1], [13/40/2] seek that (1) the “no build zone” should be vested in Council as open space much like Peninsula Bay such as a contiguous strip of land from the outlet to Aubrey Road is formed. This land would be maintained in a natural state within minimal cost and ensure public access and future recreation opportunities are maximised. This submission was opposed by **Alistair Munro** [13/40/1/1] and **Kirimoko Investments** [13/40/1/2].

Their second submission point seeks that there should be a separate walking and mountain biking tracks formed linking the existing tracks in both Peninsula Bay and the “Plantation Area” with Aubrey Road, Kirimoko Crescent and Rata Street. This was supported by **Alistair Munro** [13/40/2/1], and opposed by **Kirimoko Investments** [13/40/2/2].

**Matthew Lewis** [13/43/1], [13/43/2], seeks that Sticky Forest including the eastern side of the block across to Aubrey Road be protected as a “no build zone” and be a recreation reserve for future use, and that action should be taken to create more green belts both within and linking areas of development giving pedestrian and cycling access through the residential district as well as to maintain the natural beauty of the area. These submissions points were opposed by **Kirimoko Investments** [13/43/1/1] and [13/43/2/1].

**Alistair Munro** [13/50/5] seeks that a 10 metre wide public walkway along the eastern boundary is [included within the Plan Change] and it is maintained with public liability to the Council. This submission is supported by **Scott Murray** [13/50/5/1] and **David Barton** [13/50/5/2].

**Alistair Munro** [13/50/7] seeks that a more detailed assessment of walkway user type and frequency. This submission is supported by **Scott Murray** [13/50/7/1] and **David Barton** [13/50/7/2].

**Alistair Munro** [13/50/8] seeks that the final walkway should be visible from the roading network, be well lit and contoured to be inclusive to the whole community (e.g elderly, parents with small children etc). This submission is supported by **Scott Murray** [13/50/8/1] and **David Barton** [13/50/8/2].

**Alistair Munro** [13/50/9] seeks that the final position of the walkway should be aligned to connect via the Catholic School (the use of the walkway should radiate from the school). This submission was supported by **Scott Murray** [13/50/9/1] and **David Barton** [13/50/9/2].

**Alistair Munro** [13/50/11] seeks that if the proposed walkway is to remain along the eastern boundary then it should be 10 metres wide and be positioned on line and in line with the eastern boundary. It is considered that a 10 metre walkway will provide for a greater level of amenity. This submission is supported by **Scott Murray** [13/50/11/1] and **David Barton** [13/50/11/2].

**Dennis Thorn** [13/60/1] submits to change the zoning of the upper portion of the block to open space by deleting the proposed insertion of 5.3.3.4 because with the rezoning to Open Space such a provision would be unnecessary. This submission is opposed by **John May** [13/60/1/1] **Kirimoko Investments** [13/60/2/2] and supported by the **Upper Clutha Environmental Society** [13/60/1/3].

**Dennis Thorn** [13/60/2] submits that the Council should change the upper portion of the block to Open Space by amending the insertion of Rural Areas 5.2 Objective 8 and associated policies to read: Objective 8 Kirimoko Open Space Zone

8.1 To protect the visually sensitive upper area of the Kirimoko Block by restricting development to that provided for in the Open Space Zoning. This submission is opposed by **John May** [13/60/2/1], **Kirimoko Investments** [13/60/2/2], and supported by the **Upper Clutha Environmental Society** [13/60/2/3].

### 5.3.1 Explanation

The submitters all support the plan change subject to provision of all land above the landscape line (open space – no build area) being set aside for active recreation reserve for the community and that the land designated as open space (no build) within the Section 32 assessment be vested in Council as reserve.

Mountain biking in Wanaka is a rapidly growing sustainable recreation opportunity. The areas suitable for this recreation are limited and are slowly being impacted upon by the growth of the Wanaka Township. "Sticky Forest" (as the area is known) forms part of an extensive and outstanding network of trails that the submitters estimate is used by in excess of 15,000 [people] per year. Mountain biking in Wanaka is growing by in excess of 30% per year and this plan change provides a unique opportunity for the tenure of this land to be secured for the community without any effect on the developable areas of land with[in] the plan change area.

The part of the forest provides a different character of trail to the remainder of the trails network being steeper and more open creating an opportunity that can not and is not duplicated within the trails network.

The need for appropriate trail heads (with public carparking and signage) and access point to enter such reserves and trail networks is also necessary and are generally inadequate or poorly positioned on the proposed plan. Further regard should also be had to recreation linkages to nearby areas including Peninsula Bay, the forest and the outlet area. The submitters submit that the plan change assessment should disregard land tenure and property boundaries and focus on the best sustainable use of the land with specific regard made to recreation reserves and opportunities.

Submitters also request that as much as is left today (May 2007) of the area of Peninsula down to the Clutha outlet with Sticky Forest, (Duncan Drop, Kirimoko area) forest recreation paths, tracks

mountain biking area should be protected as Recreation Reserve. That submitter also requests that the no build zone landscape protection area contains no roads, development in the future.

Submitter Alistair Munro submits that the open space (no build area) location and purpose are inconsistent with both landscape protection requirements and an intention of the Council to provide for Wanaka's growing demand for residential land. The submission cites landscape report by Ralph Kruger (for the Kirimoko Group) and Rebecca Ramsay (for the Council) and contends that the landscape direction as taken by the Council in the proposed plan change is unnecessarily restrictive. The submitter also believes that the No build area does not give enough consideration to the large prominent dwellings that have been constructed on Peak View Ridge. In summary it is submitted that the adoption of the Kirimoko Structure Plan (as proposed) will result in the following outcomes:

- An overly conservative open space area
- An inefficient use of primary land
- An open space boundary that is more difficult to administer
- An aesthetically pleasing reserve corridor between two residential development, which will be at the expense of the land owners
- A lesser contribution of affordable housing.

Alistair Munro submits that the walkway at present is an inefficient use of land and should be realigned with the final roading pattern. He also seeks a more detailed assessment of walkway user type and frequency. If the walkway is to remain along the eastern extent of the Kirimoko Block then it is considered that a 10 metre walkway will provide for a greater level of amenity and provide access to all Peak View Ridge landowners.

Dennis Thorn submits that the area covered by the Building Line Restriction should be instead rezoned to Open Space Zoning consistent with the adjacent Peninsula Bay.

### **5.3.2 Consideration**

At present the Sticky Forest is in a mixture of private land ownership and land held under the Ngai Tahu Land Settlements Act for distribution to those that benefit this Act. Until such time as the benefactors of the Ngai Tahu land are found the land stays in trust and the tenure of that land can not be changed in any way, i.e no easements can be granted over this land. Ngai Tahu are aware that the forest is currently used by the mountain biking community but are not able to consider making any use of this land for that purpose formal (i.e the granting of easements). In essence trespassing on this land by mountain bikers is tolerated but can not be legalised.

The hearings panel heard from representatives of the Wanaka mountain-biking fraternity of the importance of the higher parts of the Kirimoko block in providing for mountain biking for all skill levels within easy reach of urban Wanaka. The popularity of the area for mountain biking was evidenced by the panel when undertaking a site visit – within the hour of the site visit in excess of 20 bikers were seen utilising the area.

Unfortunately the hearings panel does not have the power to recommend to the Council to take the area of the forest as a Council reserve. This is because the area of forested land is in excess of the reserve contributions being required as part of the development of the Kirimoko block, and is not being offered by the owners of the land.

Alistair Munro makes a number of submission points concerning the walkway and the area covered by the Building Line Restriction. Mr Munro quotes excerpts from some of the landscape assessments that have been undertaken for this block of land.

For completeness the following landscape architects have prepared reports on behalf of the Council:

- Rebecca Ramsay (CivicCorp) June 2005
- Rhys Girvan (CivicCorp) March 2006
- Antony Newcastle (Lakes Environmental) September 2007

The following landscape architects have prepared reports on behalf of the Kirimoko Group (the landowners)

- Di Lucus (Lucus Associates) January 2006
- Ralph Kruger (Morgan Pollard) March 2006.

It can be said that from analysis of the landscape reports all experts feel that the eastern and northern parts of the Kirimoko block warrant protection from development. The least conservative report was written by Rebecca Ramsay, however, this report was not informed by the Peninsula Bay Variation Environment Court decision (which removed the zoning from the land) or the recent Peninsula Bay Council decision (which was not appealed to the Environment Court). The most conservative report was written by Di Lucas who makes a very strong case for an increased level of protection over much of the Kirimoko Block.

The Council has studied the reports in detail and the proposed structure plan which was notified as part of this Council led Plan Change is considered the most appropriate use of the land. This plan allows development of suitable land while protecting the spurs and significant landscapes of the site from development. The Plan Change also allows for a roading connection to the Peninsula Bay development and a walkway from Scurr Heights through to Peninsula Bay.

The walkway is similar to that already formed through the Scurr Heights development and is an essential component to the urban walkway network within Wanaka. The location and type of walkway has been agreed to by all landowners in a stakeholders deed and will be formed on the completion of the Plan Change process. The walkway location is based on the topography of the site and the ability to form a walkway without excessive earthworks because the alignment has regard to the detailed topography of the site. The panel considered that this walkway would be superior to the straight line offered by the owners of 3, 4 and 5. The Council through this Plan Change is not required to give residential zoning to landowners over all of their land, the Council has taken into account the landscape features of the land and configured development to be subservient to this. The Council Plan Change has increased the development rights of all landowners as under the Rural General Zoning all landowners were subject to a very high level of scrutiny as part of any resource consent process. The panel feels that the development opportunities afforded as part of this Plan Change are significant and fulfill the enabling purpose of the Act set out in section 5 of the Act.

The submissions by Dennis Thorn concern the area of building restriction and seek instead the rezoning to Open Space Zone – similar to that within the adjacent Peninsula Bay land. However, there are a number of differences between this land and the adjacent land, namely:

- There are 13 lots within this Plan Change area, Peninsula Bay was within one ownership
- Peninsula Bay volunteered that zoning and agreed to fund the development and maintenance of the Open Space Zone for a defined period for the Council
- The owners of the land do not want to re-zone to a zoning which allows the use of the land by members of the public without this reserve status, because that could create some liability issues for the owners and further limit the use of their land.

At the hearing Mr Thorn's legal counsel submitted that his client would accept a compromise that the land could remain as Rural General Zoned land as long as buildings were a prohibited activity. This will mean that the land can still be utilised for all rural activities (such as growing of trees, animal grazing) but Resource consents for buildings could not be applied for.

This Plan Change as notified seeks to leave the underlying zoning of the landscape area as Rural General Zoning with an overlying building restriction on this land. At the hearing there was debate and discussion on the possible zonings of the land: low density with larger lot sizes (in relation to lots 3, 4 and 5), Rural General zoning with a building line restriction and prohibited status or Open Space zoning (similar to that of the Peninsula bay development adjacent).

Representatives of Alistair Munro offered to the panel at the conclusion of the hearing the following compromise:

- the no build line is set back 2 metres (max) west of the walkway, and no less than 10 metres from the eastern boundary.
- The land west of the no-build line is zoned Low Density Residential,
- That the land east of the no-build zone is zoned Rural General; and
- The first row of lots west of the no-build line on Lots 3, 4 and 5 shall have a minimum lot size of 2000m<sup>2</sup> within the Low Density residential zone.

### 5.3.3 Recommendation

Submissions by **Donna Allen** [13/2/1], **Peter and Annette Barrow** [13/16/1], **Mylrea Bell** [13/8/1], **Libby Blackley** [13/9/1], **Simon Bowden** [13/10/1], **Neil Buchanan** [13/11/1], **Phil Carter** [13/12/1], **Jeremy Culpitt** [13/17/1], **Mathew Davidson** [13/18/1], **Gerald Davies** [13/19/1], **Adam Dooney** [13/20/1], **Lee Eadie** [13/21/1], **Katherine Eustace** [13/22/1], **Tarn Felton** [13/23/1], **Rosie Futschek** [13/25/1] **Jenny Grace** [13/27/1], **Willem Groenen** [13/28/1], **Joanna Guest** [13/29/1], **Myran Hagenfeldt** [13/30/1], **Joanna Hayward** [13/31/1], **Alistair Heine** [13/32/1], **Tim Hudson** [13/33.1], **Thierry Huet** [13/34/1], **Michael Hughes** [13/35/1], **Stephen Hughes** [13/36/1], **Neil Kerr** [13/38/1], **Fredrick Larsson** [13/41/1], **Laura Larsson** [13/42/1], **Sarah Macnab** [13/44/1], **Bruce McGechan** [13/46/1], **Andrew McLeod** [13/47/1], **Dan McMullan** [13/48/1], **RH Millar** [13/49/1], **Ray O'Brian** [13/52/1], **Chris Riley** [13/53/1] **Davie Robinson** [13/54/1], **Mary-Louise Schroder** [13/55/1], **Jo Sedon** [13/54/1], **Nikki Shaw** [13/57/1], **Jeremy Shearer** [13/58/1], **Ben Taylor** [13/59/1], **Chris Tubb** [13/61/1], **Lucan Waite** [13/62/1], **Jon Watts** [13/63/1], **Scott West** [13/64/1], **Megan Williams** [13/65/1], **Ben Wilson** [13/66/1], **Todd Windle** [13/67/1], **Jessica Winter** [13/68/1], **Andy Woods** [13/69/1], **Finlay Woods** [13/70/1], **Patricia Wrigley** [13/71/1] are **rejected** while the further submissions from **Kirimoko Investments** [13/2/1/1], [13/6/1/1], [13/8/1/1], [13/9/1/1], [13/10/1/1], [13/11/1/1], [13/12/1/1], [13/17/1/1], [13/18/1/1], [13/19/1/1], [13/20/1/1], [13/21/1/1], [13/22/1/1], [13/23/1/1], [13/25/1/1], [13/27/1/1], [13/28/1/1], [13/29/1/1], [13/30/1/1], [13/31/1/1], [13/32/1/1], [13/33/1/1], [13/34/1/1], [13/35/1/1], [13/36/1/1], [13/38/1/1], [13/41/1/1], [13/42/1/1], [13/44/1/1], [13/46/1/1], [13/47/1/1], [13/48/1/1], [13/49/1/1], [13/52/1/1], [13/53/1/1], [13/54/1/1], [13/55/1/1], [13/56/1/1], [13/57/1/1], [13/58/1/1], [13/59/1/1], [13/61/1/1], [13/62/1/1], [13/63/1/1], [13/64/1/1], [13/65/1/1], [13/66/1/1], [13/67/1/1], [13/68/1/1], [13/69/1/1], [13/70/1/1], [13/71/1/1] are **accepted**.

Original submissions by **Iris Abaecherli** [13/1/1] and **Lake Wanaka Cycling Inc** [13/40/1], are rejected and the further submissions by **Alistair Munro** [13/40/1/1] and **Kirimoko Investments** [13/1/1/1], [13/40/1/2] [13/40/1/2] are accepted. The submission by **Lake Wanaka Cycling Inc** [13/40/2] is rejected, the further submission by **Alistair Munro** [13/40/2/1] is rejected and the further submission by **Kirimoko Investments** [13/40/2/2] is accepted.

Original submissions by **Matthew Lewis** [13/43/1/1], [13/43/2/1], are rejected and the further submissions by **Kirimoko Investments** [13/43/1/1] and [13/43/2/1] are accepted.

Original submissions by **Alistair Munro** [13/50/5] [13/50/7] [13/50/8] [13/50/9] [13/50/11] and further submissions by **Scott Murray** [13/50/5/1] [13/50/7/1] [13/50/8/1] [13/50/9/1] [13/50/11/1] and **David Barton** [13/50/5/2]. [13/50/7/2] [13/50/8/2] [13/50/9/2] [13/50/11/2] are rejected.

Original submissions by **Dennis Thorn** [13/60/1] [13/60/2] and further submission by the **Upper Clutha Environmental Society** [13/60/1/3] [13/60/2/3] are accepted in part through adoption of the compromise presented in the hearing where Rural General zoning would apply but with buildings and development prohibited. The submissions by **John May** [13/60/1/1] [13/60/2/1] and **Kirimoko Investments** [13/60/2/2] [13/60/2/2], are rejected in part through adoption of the compromise presented in the hearing where Rural General zoning would apply but with buildings and development prohibited.

### 5.3.4 Reasons

The hearings panel considered the need for Landscape protection, the future use of the land above the “no build” line, and the location of the walkway. The panel has come to the view that Rural General Zoning with a prohibition on buildings was appropriate for the following reasons:

- Additional large areas of reserve land within the area of Kirimoko are not required and could not be justified by the Council
- The location of the walkway follows topography to result in a walkway that can be used by most members of the community for walking, cycling, running etc and provides sufficient variation to be interesting;
- The landscape assessment undertaken for this Plan Change is intended to contain Low Density residential development with a hard edge whilst providing for Rural General zoning where all building are prohibited area across the higher, more visually sensitive parts of the site.
- The Open Space Zoning is more suited to areas of land under one ownership or at the very least with the support of landowners; unfortunately this is not the case for this Plan Change.

- The Council has no power to create reserve areas for the use of mountain bikers within the majority of Sticky Forest as this land is controlled and protected under the Ngai Tahu Settlement Act for distribution to beneficiaries of this Act.
- A walkway has been agreed to be provided as part of this Plan Change in the form of an easement in gross to the Council for use by the community. This easement can follow the contour of the land as agreed and does not need to be contained within a [10m] area parallel to the properties at Peak View Ridge.
- It would be inappropriate for the Council to include a road through the Kirimoko Block to the Rural General zoned land beyond. This in turn could potentially give an assumption that that land could be developed, as opposed to testing the appropriateness of developing that land through a Section 32 analysis. If required, a road can be designated by the Council and agreement made with landowners in the future, however some care would need to be taken in the formation of any such road and the respective cut and fill involved in the earthworks to construct the road may compromise the landscape.
- Mr Thorn's legal counsel was of the opinion that his client's submission gives jurisdiction to amend his relief sought from Open Space Zone to Rural General zoning with prohibited activity status for all buildings and development, as this would equate to allowing the submission in part by allowing something less restrictive than the Open Space Zone regime sought in the submission.
- The alternative options offered by the owners of Lots 3, 4 and 5 do not provide as much landscape protection as the protection provided by the plan change as notified.

#### **5.4 Location and Specifics of Building Line Restriction Area**

**Barry Andrews** [13/4/1 and 13/4/2] seeks the following:

- (a) That the 'building line needs more definition' and that needs a more accurate definition; and
- (b) That the area of "landscape significance and what is proposed for it needs to be clarified".

Submission [13/4/1] is supported by **Alistair Munro** [13/4/1/1] and **Kirimoko Investments Limited** [[13/4/1/2]. **Kirimoko Group** [13/4/2/1] remains neutral on submission point [13/4/2]

**Alistair Munro** [13/50/2] submits that a 20 metre building setback from the eastern boundary (creating a separation of at least 26 metres between dwellings located on Kirimoko and dwellings located on Peak View Ridge). This submission is supported by **Scott Murray** [13/50/2/1].

**David Crawford** [13/16/1] submits in support of the Plan Change except for the position of the No Build Line in respect of Lot 3.

This submission is supported by **Alistair Munro** [13/16/1/1].

**Fitgerald/Barton Lot 4** [13/24/1] submit that the no build line should be moved above the building platform on lot 4.

This submission is supported by **Alistair Munro** [13/24/1/1].

**Alistair Munro** submits that the identification of a 40 metre strip on the eastern boundary that would allow residential sections no smaller than 2000 square metres in area [13/50/1]. This submission is supported by **Scott Murray** [13/50/1/1].

**Alistair Munro** [13/50/3] submits that a height restriction should be imposed for the first row of houses in Lot 5. This submission is supported by **Scott Murray** [13/50/3/1] and **David Barton** [13/50/3/2].

**Alistair Munro** [13/50/4] seeks that there are height restrictions on trees planted within the 20m building setback. This is supported by **Scott Murray** [13/15/4/1].

**Alistair Munro** [13/50/6] seeks clarity on whether Open Space zoned land can be used to form part of the minimum allotments size of Low Density Residential Zone. This submission is supported by **Scott Murray** [13/50/6/1].

**Alistair Munro** [13/50/14] notes the following – that the summary of July 2006 submissions [consultation comments] and the Kruger and Ramsay reports referred to the submission text be included in the Appendices so that the public have full disclosure of all relevant Landscape Assessments concerning the Kirimoko land. This submission is supported by **Scott Murray** [13/50/14/1].

**Dennis Thorn** [13/60/3] submits that the changes he has shown on Map 20 of the PODP are made: that the lower portion of the block is re-zoned to Low Density residential and the upper portion of the block is rezoned to Open Space zoning. This submission is opposed by **John May** [13/60/3/1] and **Kirimoko Investments** [13/60/3/2] and supported by the **Upper Clutha Environmental Society** [13/60/3/3].

**Dennis Thorn** [13/60/4] submits that the Open Space zoning should be extended to protect the northern ridge line by inserting the attached and varied Structure Plan. The key has been altered to read only Open Space, and the boundary of the Open Space, and the boundary of the Open Space Zone has been extended to take into account the northern ridge line. This submission was opposed by **John May** [13/60/4/1] and **Kirimoko Investments** [13/60/4/2] and supported by the **Upper Clutha Environmental Society** [13/60/4/3].

#### 5.4.1 Explanation

This group of submissions seek clarification of the building restriction area as well as changes to that area.

Barry Andrews comments that he is in agreement with the building line restriction and what it is seeking to achieve, he finds that the line as it stands is hard to identify. Since the notification of this Plan Change the landscape line has been pegged out by surveyors to assist both submitters and the commissioners hearing this plan change. He also seeks that the use of the area is strengthened and maintained as predominately open space, with any planting to be less than 3 metres in height.

In his submissions Alistair Munro states that the structure plan (in relation to the position of the landscape line) is overly conservative. With consideration of the landscape assessments by Ralph Kruger and Rebecca Ramsay a far less conservative approach to protecting such a “second order” visually sensitive landscape should be applied. Mr Munro submits that the development on Peak View Ridge has made impossible the intentions of the “Open Space” area proposed along the upper margins of Lot 5. It is submitted that a dwelling can be placed in all places within Lot 5, without breaking the sky line. As such, any adverse effects associated with buildings development upon Lot 5 (where visible to the west) would be less than minor.

Mr Munro submits that the adoption of the Kirimoko Structure Plan (as proposed) will establish an over protection of land that could otherwise accommodate residential development, with no discernable increase in adverse effect.

Adoption of the restrictions proposed by the submitter would provide a compromise between the positions of Rebecca Ramsay and Rhys Girvan and generally align to Ralf Kruger’s dashed yellow, bold line. The compromise would achieve the following outcomes:

- Lot 5 owners could build reasonably high on the land in a small number of places to utilise the magnificent views
- A privacy buffer could be planted with the houses and the public walkway
- The proposed restrictions would conform to the reverse sensitivity agreement reached with the Peak View Ridge owners while providing a level of amenity of a walkway on their western boundary; and
- There would be a 20 metre green buffer that could further shield the first row of houses down the slope in Kirimoko, but not so high up as to block the view of the Peak View Ridge landowners.

Mr Munro also seeks that additional landscape reports are made available for the public to study. They were subsequently attached for information purposes to the Planner's Report for the hearing. The landscape report by Antony Rewcastle formed part of the Planner's Report.

Dennis Thorn's submission contends that the Plan Change, instead of protecting the higher land of landscape significance from development has, by leaving the zoning as Rural General and only declaring buildings in the restricted area as non complying activities, left the door open for the developers of the block to apply for resource consent for commercial activities such as resorts of the like we are seeing at Glendhu Bay, visitor accommodation in the form of hotels and apartment blocks, lifestyle blocks and residential housing. He believes that this was purposely done at the request of the developers. The remedy sought was Open Space zoning, but the hearings panel was advised by Mr Thorn's legal counsel that Mr Thorn's concern would be met by Rural General zoning provided buildings had prohibited status within the land of landscape significance.

Mr Thorn also submits that the Peninsula Bay decision did not properly take into account the significance of the high land to the east of Peninsula Bay on the Ngai Tahu boundary. The Open Space zone should have been extensively enlarged especially at the point where Peninsula Bay meets this block. The boundary is vulnerable to change and cannot absorb the sort of residential development that rezoning to low density residential will bring to it. There are no adequate rules established in the proposed plan changes to ensure this ridge remains open space and protected.

#### **5.4.2 Consideration**

The boundary between zones can be defined in a number of ways, though predominately by legal boundaries (i.e. lot boundaries), roads and natural features such as lakes, rivers and topography. In the case of this Plan Change the Council has used the undulating topography to distinguish between the boundaries of activities. The Council through this Plan Change has re-zoned a large proportion of land as Low Density Residential (a reasonably permissive zone) from Rural General (the most restrictive zoning in the District Plan) based on the topography of the site.

All of the landscape architects who have studied this environment have the consistent view that the upper parts of the Kirimoko Block have landscape values that are vulnerable to degradation resulting from development. This is not disputed, however the mechanism that provides protection and location of the line which divides the different land uses is. The Council in proposing this Plan Change has accepted the landscape evidence from Rebecca Ramsay, Rhys Girvan and more recently Antony Rewcastle.

In his report (which formed part of the Planners Report) Mr Rewcastle states that the purpose of the "no build" line has been identified to protect elevated and sensitive parts of the site from development. He expresses the view that the suggestions made in Mr Munro's submission [13/50/1-14] would not provide the hard edge of development as currently proposed within the Plan Change. A broken or "soft" edge would appear to blend (or amalgamate) development between Peak View Ridge properties with the high density on the slopes below (within the natural amphitheatre).

Mr Munro refers to a "reverse sensitivity agreement" in this submission and includes the signatures of a number of Peak View Ridge owners providing agreement to a number of mitigation measures suggested by the Kirimoko Group. In the case of a resource consent, where a party is affected by a proposal it is usual practise to get approval from that party effectively signing off that they are not affected. This is a Council plan change, and the effects on the environment are studied and evidenced within the Section 32 report. Once notified anyone can submit to the Plan Change and seek changes. For this reason "affected party sign-off" does not have any effect on this analysis and does not restrict the outcomes of the Plan Change process under the 1<sup>st</sup> schedule of the Resource Management Act 1991.

Dennis Thorn in his submission discusses the provision of the Open Space Zone and the protection of the northern ridge line adjacent to Peninsula Bay. The Peninsula Bay zone is effectively operative as there are no appeals against this zoning so it must be accepted that the zoning is settled. In that case Open Space zoning of the higher land was volunteered by the landowner; in this case it is opposed by some of the landowners. The hearing panel considers that Rural General zoning, but with a special

prohibition on buildings, would achieve much the same result as Open Space zoning, while allowing the owners the option of using it for some kind of farming activities.

There was a concern from Barry Andrews that tall trees within the Landscape Protection Area may impede views of Peak View Residents. Alistair Munro also submitted that a height limit of trees adjacent to the Peak View properties was appropriate. The panel decided that planted trees or horticulture uses in the lots (3, 4 and 5) have the potential to affect views and accordingly put a limit on the height at maturity that trees or species can grow to. It was considered that the remaining lots did not have the same potential to disrupt views, and the felling and re-planing of the forested area in time should not be hindered. It should be noted that the re-planting of the forest would require resource consent if wilding species were to be planted.

#### 5.4.3 Recommendation

That the submission points made by **Barry Andrews** [13/4/1 and 13/4/2] and further submissions by **Alisatir Munro** [13/4/1/1] and **Kirimoko Investments Limited** [13/4/1/2] [13/4/2/1] are **accepted**.

That the submissions by **Alistair Munro** [13/50/2], [13/50/1], [13/50/3], **David Crawford** [13/16/1] and **Fitgerald/Barton Lot 4** [13/24/1], and further submissions by **Scott Murray** [13/50/2/1], **Kirimoko Investments Limited** [[13/4/1/2], **Alistair Munro** [13/16/1/1], [13/4/1/1], [13/24/1/1], **Scott Murray** [13/50/3/1] [13/50/2/1] [13/50/1/1], [13/50/5/1], [13/50/6/1] and **David Barton** [13/50/3/2] are **rejected**.

That the submissions by **Alistair Munro** [13/50/4], and further submission by **Scott Murray** [13/15/4/1], are **accepted in part**.

That the submission by **Alistair Munro** [13/50/6] and further submission by **Scott Murray** [13/50/6/1] is **accepted**.

That the submission by **Dennis Thorn** [13/60/3] and further submission by the **Upper Clutha Environmental Society** [13/60/3/3] are **accepted in part**, the part that is accepted relates to the change in which buildings would be a prohibited activity in the landscape protection areas and the further submissions by **John May** [13/60/3/1] and **Kirimoko Investments** [13/60/3/2] are **rejected in part**.

That the submission by **Dennis Thorn** [13/60/4] and supported by **Upper Clutha Environmental Society** [13/60/4/3] is **rejected** and the further submissions by **John May** [13/60/4/1] and **Kirimoko Investments** [13/60/4/2] are **accepted**.

That the submission by **Alistair Munro** [13/50/14] and further submission by **Scott Murray** [13/50/14/1] is **accepted**.

#### 5.4.4 Reasons

- Significant analysis has gone into the rationale behind the location of the landscape line, this is evidenced in the landscape reports written by Council landscape architects. To change the Plan Change to accept the submissions would result in the loss of a hard edge of development within the block.
- It was considered that the submission by Mr Thorn did seek in the relief sought (as part of the submission) a change to prohibited status for development within the landscape protection area, and accordingly this can be amended.
- A 20 metre buffer and large lot sizes will not protect the landscape of this area.
- Parts of the land in the Rural General Zone should be tied to developable land in the Low Density Residential Zone and this should not form part of the minimum lot size. The original drafting of the rules was confusing and should be corrected.
- Tall trees and plant species would affect the amenity and views enjoyed by owners of the Peak View properties, it is therefore appropriate to place restrictions on the species that may grow over this height.

## 5.5 Subdivision and Structure Plan Design

**David Barton [13/7/1]** submits that the road be slightly realigned so that it is equally located between lot 2 and 4 so that lots 2, 3 and 4 all have equal access. He believes that from a landscape perspective there would be no difference as the contours are no different between the current location and the proposed location.

This submission is supported by **Alistair Munro [13/7/1/1]**.

**Stephen Collie** submits the following [13/15/1 – 13/15/7]:

Decline the Plan Change in its current form unless further information is provided to clarify the points raised:

- (a) As there is no certainty that all of the landowners will develop their properties in a comprehensive manner all titles to be developed for residential properties should be amalgamated into a company type structure which would ensure that the entire area was developed comprehensively and to the same standard. This development could be staged to meet market demand.
- (b) There is no certainty that the developers will not develop each of their blocks into 900-1000 metre sections which could then be built on and further subdivided down to 450m (as allowed by rule 15.2.6.3 and rule 7.5.5.2(iii)). Calculations show that if 350 lots were developed in this area then the average allotment size would be 996 square metres (after deducting the open space and roading corridors). If developed down to 450 square metres then the submitter believes that 775 allotments might be possible in this area, causing infrastructure problems.
- (c) What is stopping the owners from developing comprehensive residential developments on the rezoned blocks of land that could potentially have lots down to 350sqm. Suggests a “no further subdivision” consent notice be imposed on lots developed under the first subdivision by the owners, this will give certainty to the outcome and density. This is the same with Peninsula Bay to the north so why not here?
- (d) Average lots size should be limited to no less than 700sqm, this will align with rules 15.2.6.3 and give certainty to what the maximum density will be.
- (e) Unclear where the roading link to Peninsula Bay is. Suggest that the subdivision design is progressed a little further and more detail is provided with the Structure Plan.
- (f) At the time of subdividing the owner of the block should consult with their neighbours to ensure their concerns are met and no cross boundary issues result. No information has been presented to show how the 13 blocks are to be developed in a comprehensive manner.
- (g) Ensure that any stormwater discharges meet the necessary ORC standards for outfall to the lake, there needs to be some certainty that the increased stormwater will not adversely affect the quality of the lake.

These submissions points are opposed by **Kirimoko Investments [13/15/1/1, 13/15/2/1, 13/15/3/1, 13/15/4/1, 13/15/5/1, 13/15/6/1, 13/15/7/1]**.

**Infinity Investments Limited** oppose the Plan Change on the following grounds and seek that the Plan Change is disallowed until such time as appropriate measures are included to deal with the following issues: [13/37/1 – 13/37/6]

- a) The Section 32 does not contain sufficient detail
- b) There is no certainty that individual block owners will develop in a comprehensive manner to lead to an integrated and comprehensive urban form.
- c) The proposed structure plan is too brief and lacks sufficient detail to lead to certain outcome
- d) There is no certainty as to future lot layout
- e) Disjoined development on a “block by block” basis could lead to development which is poorly conceived (in overall terms) and which has little relation to the broader urban framework.
- f) There is no certainty as to stormwater discharges.

These submissions are all opposed by **Kirimoko Investments [13/37/1/1, 13/37/2/1, 13/37/3/1, 13/37/4/1, 13/37/5/1, 13/37/6/1]**.

**Alistair Munro** [13/50/10] submits that the final roading network should be determined at the time of subdivision and when the final roading network is defined. This submission is supported by **Scott Murray** [13/50/10/1] and **David Barton** [13/50/10/2].

**Alistair Munro** [13/50/12] submits that the ring road that has been proposed to connect into Kirimoko Crescent (at generally the same point as where the road reserve and tributary meet Kirimoko Crescent) should be rejected or aligned after taking into consideration traffic safety and engineering requirements. This submission is supported by **Scott Murray** [13/50/12/1] and **David Barton** [13/50/12/2].

**Alistair Munro** [13/50/13] submits that the final location of the reserve and/or tributary walking track should only be determined after the final roading layout has been finalised. If the reserve is to stay in its proposed position, provision should be made for subdivision roading to be constructed through reserve land as part of the subdivision consent. This submission was supported by **Scott Murray** [13/50/13/1] and **David Barton** [13/50/13/2].

### 5.5.1 Explanation

David Barton submits that the road to serve Lots 2, 3 and 4 is moved slightly to give equal access to all lots.

Stephen Collie makes a number of submissions about the Plan Change and how development will occur over time. The submitter seeks that all landowners develop their land as part of a company type structure (within one ownership) in a comprehensive staged manner. He feels that allowing the landowners to develop their sections over time will not lead to the same standards in design.

Stephen Collie raises a number of submission points in relation to minimum lots sizes within the District Plan and how landowners may utilise the provisions relating to comprehensive development, and how this may affect the provision of infrastructure. He questions the location of the roading link to Peninsula Bay, the need to consult with neighbours before commencing development and the requirement for the Kirimoko Block owners to comply with ORC standards for stormwater.

Infinity Investments submission points relate to the ability for Council to require comprehensive development of the Kirimoko Block and need for a more detailed structure plan and detailed subdivision and lot designs. Infinity believe that this will lead to a poorly conceived urban framework. Infinity also has concerns about stormwater.

Alistair Munro's submission relates to the structure plan and the roading network, and that this should be confirmed at the time of subdivision as opposed to being contained within the Structure Plan. The submitter would like provision for subdivision roading to occur through reserve land.

### 5.5.2 Consideration

It is appropriate to slightly move the location of the road serving Lots 2, 3 and 4 to give access to these lots.

The zoning of the Kirimoko Block is Rural General and as of right each owner could utilise their building platform. It is likely that over time landowners would apply for discretionary resource consents to further develop their land in line with surrounding residential development in this part of Wanaka. This would result in piecemeal development of the land. The Kirimoko Group came to the Council as a united group to seek re-zoning of their land and the creation of a structure plan to assist in future development. The Council saw the benefits to the community of the re-zoning and the ability to develop a roading network to serve the area and link into adjacent existing residential developments such as Peninsula Bay. These links could not have been confirmed without the Kirimoko lot owners working together and developing a structure plan to be included within the District Plan. It is especially beneficial to confirm a structure plan now, as many of the landowners are not seeking to develop their land in the near future.

The panel accept that having a structure plan within the District Plan to confirm zoning is the most appropriate mechanism to achieve comprehensive planning. Not all developments are greenfields developments within one ownership and as such there is no requirement under the Act for the Council to require comprehensive development of adjoining land. There is no need for one developer to be responsible for all of the development within this zone.

Minimum lot sizes are defined in the District Plan. The plan allows for further development of parcels of land if they are developed comprehensively, allowing smaller lot sizes. There are benefits in this approach as the location of dwellings on lots can be defined as part of the subdivision process. Smaller minimum lot sizes assist to provide a density of housing which is more sustainable in a growing population for the provision of infrastructure, shopping centres, public transport etc. In the case of Peninsula Bay the Council decided that Low Density Development was appropriate; it was the developers who put the restrictions on further subdivision (or not) that could take place within that development.

The location of the road to Peninsula Bay has been located on the Structure Plan to meet the road consented to as part of the Peninsula Bay Outline Development Plan process. The District Plan and the Otago Water and Land Plan set standards for stormwater discharges, these will need to be met as part of subdivision resource consents.

Infinity Investments Limited has similar concerns about the lack of comprehensive design that may occur with landowners developing their land at different times. The hearing panel considers that the Structure Plan for the KiriMoko block will ensure a co-ordinated broad layout by defining the position of the existing and future roads, the “Green Network” corridors and nodes, and the position of the Low Density Residential/Rural General Zone boundary. The Structure Plan was developed through extensive landscape analysis, and in consultation with the landowners. Lot layout is unnecessary at this stage of planning; it is appropriate for this to be provided as part of a subdivision consent.

Discussion during the hearing between the experts and the Council panel suggested that the discretionary assessment matters for reserves and roading could be improved.

### **5.5.3 Recommendation**

That the submissions made by **David Barton [13/7/1]** and supported by **Alistair Munro [13/7/1/1]** are accepted.

*That the submissions by **Stephen Collie [13/15/1 – 13/15/7]**, **Infinity Investments Limited [13/37/1 – 13/37/6]**, **Alistair Munro [13/50/10]**, **Alistair Munro [13/50/12]**, **Alistair Munro [13/50/13]** and the further submissions of **Scott Murray [13/50/10/1] [13/50/12/1]** , **[13/50/13/1 David Barton [13/50/10/2], [13/50/12/2], [13/50/13/2]** are rejected*

*That the further submissions of **KiriMoko Investments [13/15/1/1, 13/15/2/1, 13/15/3/1, 13/15/4/1, 13/15/5/1, 13/15/6/1, 13/15/7/1]**, **[13/37/1/1, 13/37/2/1, 13/37/3/1, 13/37/4/1, 13/37/5/1, 13/37/6/1]** are accepted.*

### **5.5.4 Reasons**

The slight movement of the roading as requested by David Barton is acceptable on landscape grounds.

The Low Density Residential Zone provides a framework for subdivision that is appropriate. The Structure Plan that is being added into the District Plan provides the Council and the community with an appropriate development framework, however a number of small amendments are required to give certainty to how the structure plan will work for lot holders applying for resource consent and for planners processing these consents.

## **5.6     LEGAL AGREEMENTS**

**Dennis Thorn** [13/60/5] submits to bring the stakeholders deed into the District Plan and make it so developers can not possibly breach the walkway easement condition by changing the Activity Status set out in the proposed 15.2.3.4(vii). This submission is opposed by **John May** [13/60/5/1], **Kirimoko Investments** [13/60/5/2] and supported by the **Upper Clutha Environmental Society** [13/60/5/3].

### **5.6.1   Explanation**

Mr Thorn's submission states that the Council has again decided to enter into private agreements with the developer out of the public view. He believes that the stakeholders deed represents a private contract which can be changed by the parties at any time and nobody else can enforce its terms. He believes these obligations should be considered in the rules within the District Plan.

### **5.6.2   Consideration**

Stakeholders' deeds are an important tool for the Council when dealing with Plan Changes on behalf of private developers. As part of this plan change for instance, the Council has been able to obtain agreement for community housing and a walkway, both of which are not provided for at present within the District Plan.

The Council's lawyers have drafted an agreement which confirms contributions of 5% affordable housing and the formation of a walkway across the land. Much of the detail that makes up these legal agreements could not legally be included in the District Plan. The legal agreements are complimentary to the District Plan in that they do not allow subdivision until a walkway easement has been created.

Stakeholders' deeds signed by the Council are public documents.

### **5.6.3   Recommendation**

That the submission by Dennis Thorn [13/60/5] and further submission by **Upper Clutha Environmental Society** [13/60/5/3] are **rejected** and the further submissions by **John May** [13/60/5/1], **Kirimoko Investments** [13/60/5/2] are **accepted**.

### **5.6.4   Reasons**

Stakeholders deed are an important tool in gaining agreements between landowners and the Council, they form part of the public record and provide certainty as to outcomes achieved on behalf of the community.

## **APPENDIX 1: RECOMMENDED AMENDMENTS TO THE DISTRICT PLAN PROVISIONS FOR KIRIMOKO PLAN CHANGE AS NOTIFIED SHOWING COUNCILS DECISION ON SUBMISSIONS**

### **Changes to District Plan for Kirimoko Plan Change 13**

The changes to the notified provisions recommended within this decision are depicted by underlining for additions, and as ~~strikethrough~~ for deletions.

#### **Proposed issues, rules, policies and objectives**

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##### **Insert as 5.3.3.4**

- (vii) Any planting within the Landscape Protection area (within Lots 3, 4 and 5) must be species which at maturity do not grow over 3m in height (Kirimoko Block, Wanaka).

##### **Insert as 5.3.3.5 Prohibited Activities in the Rural General Zone**

- iv Any building or development within the area of landscape protection that is protected by the building line restriction (as shown on the structure plan) other than development required for the creation of pedestrian or cycle access-ways (Kirimoko Block, Wanaka).

##### **Insert in Rural Areas 5.2 Objective 8 and associated policies**

###### **Objective 8 – Building Line Restriction Area**

To prevent development of the sensitive upper area of the Kirimoko Block (Building Line Restriction area) in Wanaka.

- 8.1 To protect the elevated, more visually sensitive upper area of the Kirimoko Block by limiting development to lower areas within the natural amphitheatre zoned Low Density residential.
- 8.2 To maintain the open character of the building restriction area by promoting the planting of small native plants and shrubs
- 8.3 To ensure the protection of the prominent ridgeline from development by restricting development to the Low Density Residential zoned area.

##### **Insert in 7.3.3 Objectives and Policies – Wanaka residential Area, Objective 4 and policies 7 and 8.**

###### **Objectives**

- 6 To provide for the expansion of the Catholic School over time as the number of pupils increase, within the framework of the Low Density Residential Zone.

- 7 To ensure that safe road and pedestrian access is provided to the school from the Krimoko Block and to surrounding neighbourhoods.

## Issues

### Insert as 15.1.2 viii

#### Appropriate Subdivision – Krimoko Block – Wanaka

The Krimoko Block is predominantly undulating topography and inappropriate subdivision and development has the potential to require significant earthworks and may compromise elevated, more visually sensitive spurs surrounding the block.

## Objectives and Policies

### Insert as 15.1.3 Objective 7

Krimoko Block – Wanaka - To create a livable urban environment which achieves best practise in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.

### Insert as 15.1.3 Objective 7 Policies 7.1 -7.9

- 7.1 To protect the landscape quality and visual amenity of the Krimoko Block and to preserve sightlines to local natural landforms.
- 7.2 To require that the walkway from Scur Heights across the Krimoko Block to Peninsula Bay is completed before any subdivision is applied for.
- 7.3 To protect the natural topography of the Krimoko Block and to incorporate existing environmental features into the design of the site.
- 7.4 To ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies (all zoned Low Density residential) and that visually sensitive areas such as the spurs are left undeveloped (building line restriction area).
- 7.5 To ensure the provision of open space and community facilities that are suitable for the whole community and which are located in safe and accessible areas.
- 7.6 To develop an interconnected network of streets, footpaths, walkways and open space linkages which facilitate a safe, attractive and pleasant walking, cycling and driving environment.
- 7.7 To provide for road and walkway linkages to neighbouring developments
- 7.8 To ensure that all roads are designed and located to minimise the need for extensive cut and fill and to protect the natural topographical layout and features of the site.
- 7.9 To minimise disturbance of existing native plant remnants and to enhance areas of native vegetation by providing linkages to other open space areas and to areas of ecological value.
- 7.10 To design for stormwater management which minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas.
- 7.11 To require the roading network within the Krimoko Block to be planted with appropriate trees to create a green living environment appropriate to the areas.

### Insert in Subdivision, Development and Financial Contributions, 15.2.3.3 (vii)

vii Any subdivision complying with the principal roading layout depicted in the Krimoko Structure Plan shown on Page 7-59 (including the creation of additional roads, and/or the creation of access ways for more than 2 properties) shall be a Restricted Discretionary Activity.

The Council's discretion will be limited to the following:

- Any earthworks required to create any vehicle accesses of building platforms
- The design of the subdivision including lot configuration and roading patterns
- Creation and planting of road reserves
- The provision and location of walkways and the green network as illustrated on the Structure Plan for the Krimoko Block contained within part 7 of this District Plan
- The protection of native species as identified on the structure plan as green network

**Insert in Rule 15.2.3.3 (vi) as follows:**

- (vi) In the Rural General Zone all subdivision and location of residential buildings platforms shall be a discretionary activity, except any subdivision of land zoned Rural General pursuant to Rule 15.2.3.3 (vii) (Kirimoko Block – Wanaka)

**Insert as part of Rule 15.2.6.3 (iii)(b)**

(b) In the Rural General (and Gibbston Character) Zones

Every allotment created shall have one Residential Building Platform approved at the time of the subdivision of not less than 70m<sup>2</sup> in area and not greater than 1000m<sup>2</sup> in area excluding lots created for the following purposes:

- (i) access lots, including driveways and walkways;
- (ii) land subject to restrictive covenant, consent notice or other legal instrument that:
  - (a) prohibits buildings in the future
  - (b) protects nature conservation values; or
  - (c) maintains and enhances open space;
- (iii) esplanade strips or reserves
- (iv) utilities
- (v) boundary adjustments
- (vi) Any allotment created pursuant to a subdivision under Rule 15.2.3.3(vii)

**Insert in Subdivision, Development and Financial Contributions, 15.2.3.4**

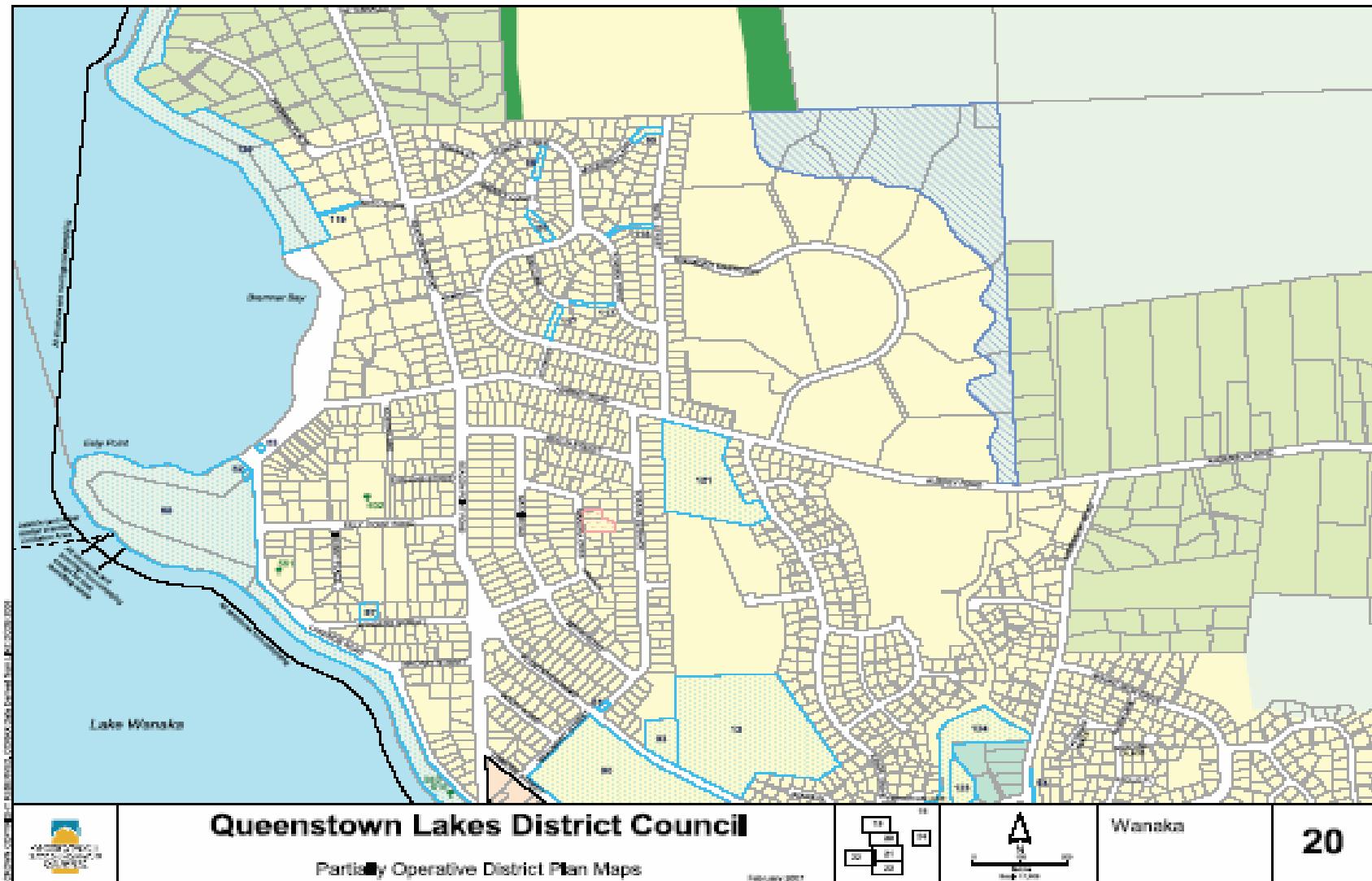
- (vi) Kirimoko Block – Any subdivision that is not in general accordance with the location of the principal roading and reserve network contained with the Krimoko Structure Plan shown on Page 7-59 shall be a Non-complying Activity.
- (vii) Any subdivision of land zoned Low Density Residential Zone on the Krimoko Block prior to a walkway being constructed to QLDC Standards from Aubrey Road to Peninsula Bay and an easement in gross for such a walkway being registered against all servient titles.

- (viii) Kirimoko Block – Wanaka: Any subdivision of land zoned Rural General proposed to create a lot entirely within the Rural General Zone, to be held in a separate certificate of title.
- (ix) Kirimoko Block – Wanaka: Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP 304817 (and any title derived therefrom) that creates more than one lot which has included in its legal boundary land zoned Rural General.

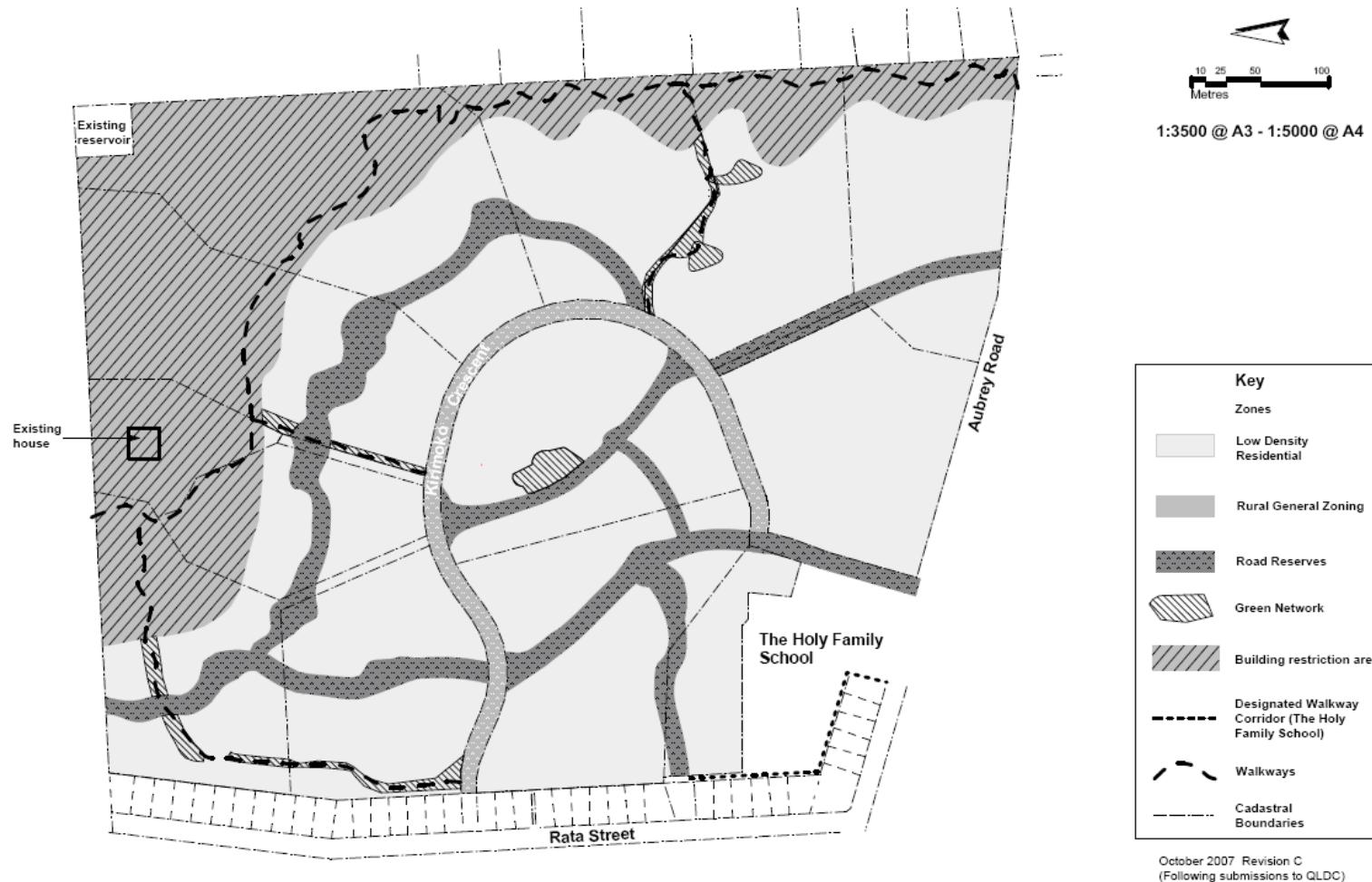
If none of these rules (vi – ix) are offended by the subdivision proposal then it is restricted discretionary in accordance with Rule 15.2.3.3 (vii)

Make changes as shown to Map 20 of the Partially Operative District Plan to re-zone the lower portion of the block to Low Density Residential Zoning and to place a building line restriction over the parts of the Kirimoko Block with Landscape Significance.

Insert the Structure Plan as amended by the Council's decision as page 7-59 of the District Plan.



# Kirimoko Block - Wanaka - Structure Plan



## APPENDIX 2 – SECTION 32 ANALYSIS OF CHANGES MADE BY THE HEARINGS PANEL TO PLAN CHANGE 13 AS NOTIFIED

The significant change made by the hearings panel in relation to this decision was to change the status of buildings within the Rural General Building Area from Non Complying to Prohibited.

The following tables shows an analysis of the alternatives and amendments made to the Section 32 analysis notified as part of Plan Change 13: Kirimoko Block Wanaka:

Options	Effectiveness and Efficiency	Costs and Benefits	Recommendations
The appropriate method of preserving the area of Landscape Significance			
Option 1: Remain as Rural General Zoned land	This option is not effective or efficient as it will result in an “island” of Rural General Zoned land between Low Density Residential and Rural Residential Zoned Land, this will be compromised through resource consents being applied for to build on the land.	This option would not result in any costs as the land would remain Rural General. Rural General Zoning has more tests for development than Low Density Zoning which anticipates development. Each lot owner will only be able to build by right on their existing building platform.	This option is not considered appropriate as it does not provide any security that the area of landscape significance will be protected.  <b>Do not pursue this option.</b>
Option 2: Rezone as Open Space Protection area (as in Peninsula Bay)	This option would be effective in protecting this area of landscape significance by preventing any built form but allowing the community to use of the area effectively as a reserve.  It is efficient in the sense that the area could be used by the community as a reserve but would	This option was appropriate in the case of Peninsula Bay as that land was all in one ownership and the Council was able to secure maintenance and enhancement costs over time for that zone. As the Kirimoko Block is owned by 13 lot holders it is considered too unwieldy to try and achieve the same type of	This option is not considered appropriate as the Council will not be able to secure an on-going commitment to maintain the land with 13 lot owners and can not justify the on-going maintenance costs.  <b>Do not pursue this option</b>

	<p>not need to be owned by the community as such. The community is already serviced by a number of reserves in the area and no further reserves are seen as required to service current and zoned population of this area of Wanaka.</p>	<p>agreement.</p> <p>A benefit of this option would be that buildings and development would be prevented on this area of the Kirimoko Block <u>as this is a prohibited activity.</u></p>	
Option 3: Council to obtain as a Council reserve.	<p>This option would be effective in protecting this area of land from development.</p> <p>This option is not considered efficient as the Council is not in the position to purchase additional reserves in this area of Wanaka.</p>	<p>There would be a large cost to the community for purchasing this land as reserve.</p> <p>A benefit would be the Council can maintain the land and protect it from inappropriate development. However, the Council is not in the position to purchase all land in the District where development is seen as being inappropriate.</p>	<p>This option is not considered appropriate as the land is not required as reserve by the Council. The adjacent Peninsula Bay reserve area is going to be taken over by the Council in time, but in the meantime the owners of the land pay the full cost of maintenance and enhancement over time. At present at least some of the 13 landowners do not favour this option.</p> <p><b><u>Do not pursue this option, however given the support for land with security of tenure for mountain biking it is recommended that this is considered in the future in consultation with landowners when funds allow.</u></b></p>
Option 4: Rezone as Low Density Residential with a Building Line Restriction over the land.	<p>This option would be effective in that the building line restriction would prevent development subject to a non complying resource consent.</p>	<p>A cost would be that the underlying low density zoning would anticipate development, should a landowner be granted non complying consent to</p>	<p>This option is not considered appropriate as it does not afford the greatest security.</p> <p><b>Do not pursue this option</b></p>

	<p>However, if a landowner was able to obtain a non complying resource consent for development on the building line restriction area then the underlying zoning (Low Density Residential Zoning) anticipates development. This would make it more difficult to prevent development.</p>	<p>develop within a building line restriction area then the underlying zoning is considered.</p>	
Option 5: Remain as Rural General Zoned Land with a Building Line Restriction over the land.	<p>This option would be effective in that the building line restriction would prevent development subject to a non-complying resource consent.</p>	<p>This option affords <u>a high level of protection</u> the greatest protection as developing land with a building line restriction would require a non complying resource consents (development is not anticipated under this consent category) then the second test would be the underlying zoning. Development in the Rural General Zoning outside building platforms is not anticipated.</p>	<p><del>This option is considered the most appropriate option as it affords the most protection of this sensitive landscape.</del></p> <p><b><u>Recommendation:</u></b> <del>Zone all land with landscape significance Rural General with a Building line restriction over it.</del></p> <p><b><u>Do not pursue this option</u></b></p>
Option 6: Remain as Rural General Zoned Land with a Building Line restriction over the Land and make all buildings a prohibited activity as opposed to a non complying activity (as requested through Dennis Thorn's submissions to the Plan Change).	<p><u>This option would be very effective in protecting the land for any development.</u> Landowners can not apply for resource consent for a prohibited activity. This option would give the Council and the community security that buildings can not be built on this area. This option gives opponents of development of this important</p>	<p><u>A cost</u> would be the inability to utilise the land for structures that may be appropriate in this area, such as shelters.</p> <p><u>A benefit</u> is that the community and the Council have security that this land with landscape significance can not be built on in the future.</p>	<p><u>This option is considered most appropriate as it gives the greatest level of certainty that the landowners will not be able to build on the area of landscape significance.</u></p> <p><u>Recommendation:</u> Zone all land within the landscape significance Rural General with a building line restriction over it – make it a prohibited activity</p>

	<p><u>landscape the greatest level of protection.</u></p> <p><u>This method is not the most efficient as there may be opportunities for “buildings” such as shelters for walkers or large pieces of art, these would require a plan change to be undertaken.</u></p>		<p><u>for buildings as opposed to non-complying.</u></p>
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