



# QUEENSTOWN LAKES DISTRICT COUNCIL

## PENINSULA BAY DECISION

RE NOTIFIED VERSION- TO INCLUDE AMENDED ZONE  
PLAN

21 JUNE 2006-

## QUEENSTOWN LAKES DISTRICT COUNCIL

### DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

**DECISIONS FOR:** Variation 25

**ISSUE:** Peninsula Bay

**DATED:** 6 JUNE 2006

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## 1.0 INTRODUCTION

This report sets out the considerations and decisions of the Variations Hearings Panel on submissions lodged to Variation 25 Peninsula Bay to the Partially Operative District Plan.

The relevant provisions in the Queenstown Lakes District Council's Partially Operative District Plan (also referred to as the Plan) affected by the Variation and decisions are:

Plan Section	Provision
7.5.3.3	Insertion of an additional rule providing for an outline development plan for the Peninsula Bay area
7.5.4	Non-notification of applications
15	Amendments to subdivision provisions for the Open Space Zone
New Section 20	Insertion of a new Open Space Zone
Maps	Amend maps 18 and 19 of the District Plan by changing the zoning of the Peninsula Bay land from Rural General to Low Density Residential and Open Space.

Submissions are assessed either individually or grouped where the content of 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 a square bracket. In summarising further submissions, the name of the further submitter is shown in ***bold italics***, with their further submission number shown in *italics* within a square bracket.

In making decisions, the Hearings Panel has:

- (i) been assisted by a report prepared by its planning staff. This report was circulated to those submitters seeking to be heard at the hearing, prior to the hearing taking place; and
- (ii) had regard to matters raised by submitters and further submitters in their submissions and further submissions and at the Council hearing; and
- (iii) undertaken site visits and inspected the area from various locations on the lake; and
- (iv) had regard to the provisions of Section 32 of the Resource Management Act 1991.

Attached as Appendix 1 and 2 are the revised versions of the relevant provisions of Parts 7, 15 and 20 of the Plan, updated to have regard to the matters contained in this report. Where there is any inconsistency between the provisions contained in Appendix 1 and 2 and the text contained in the body of the report, then the provisions in Appendix 1 and 2 shall take precedence.

All decisions on submissions are included under the heading 'Decision'. Where specific additional text is to be included in the Plan, it is underlined. Text that is shown as struck out (i.e. ~~with a line through it~~) indicates where text is to be removed from the Plan.

## 2.0 BACKGROUND

The Peninsula Bay land comprises 75.484 hectares of land, the majority of which is currently rolling pastureland, gently rising up from the Rural Residential properties above Beacon Point Road, towards the forestry block that forms a tree-covered skyline to the north-east. The area extends in a rectangular shape from Hunter Crescent and Rata Street through to the bluffs overlooking Lake Wanaka.

The land is currently zoned Rural 2 (under the Transitional Plan) and prior to the notification of this Variation was zoned Rural General (under the Partially Operative District Plan). Both of these zonings primarily encourage the retention of land for farming purposes and for landscape amenity and protection.

The purpose of the Variation is to provide for some of the future residential growth of Wanaka by changing the zoning of the land known as Peninsula Bay to enable residential development, while:

- Protecting the important landscape and ecological values of the site;
- Retaining the amenity values of both the site and the surrounding landscape;
- Enhancing public access through the site to the Lake.

During the preparation of the Variation a detailed analysis of alternative options, including costs and benefits of each, was undertaken in accordance with Section 32 of the Resource Management Act 1991 (RMA). The outcome of the Section 32 analysis led the Council to conclude that the most appropriate way of achieving the purpose of the Resource Management Act was to rezone a significant part of the Peninsula Bay site as Low Density Residential. Those areas within the site that have been identified as sensitive in landscape terms have been rezoned Open Space. This new zone provides strict rules ensuring that the landscape and ecological values will be protected into the future.

162 original submissions and 8 further submissions were received to Variation 25. All of the submitters are listed in the following section of this report.

### 3.0 LIST OF SUBMITTERS

Original Submitters	Submission #
Stephen Abell	1/1
Kevin Alderson	2/1
Sharon Alderson	3/1
Mathew Andrews	4/1
Tony Arnerich	5/1
Jeremy Bell	6/1
Murray and Robin Bennet	7/1
Big River	8/1
Black Bag Ltd	9/1
R O Boyd	10/1, 10/2, 10/3, 10/4
Harry Briggs	11/1
Jo Briggs	12/1
Howard Brown	13/1
Jeanette Brown	14/1
N Brown	15/1, 15/2
Tony Brown	16/1
Peter Bullen	17/1

Blair Burridge	18/1
Rosie Burridge	19/1
Stew Burt	20/1
K R Chandler	21/1
Alan Collie	22/1
Stephen Collie	23/1
Barbara Collie	24/1
Colquin Holdings Limited	25/1
Paula Costello	26/1, 26/2, 26/3, 26/4, 26/5
Dwayne Crombie	27/1
Gary and Heather Crombie	28/1, 28/2
Adrian John Cross	29/1
Jonathon Roland Dale	30/1
Lisa Davis	31/1
Harry Dickey	32/1
Sharon Donnelly	33/1
P L Duff	34/1
Ralph Fegan	35/1
LE and JM Ferguson	36/1
Graeme Findlay/Kate O'Brien	37/1
Deane Flint	38/1
Howard Fraser	39/1
Murray Frost	40/1
Neville Frost	41/1
Barry Gard	42/1
Rachel Gard	43/1
Peter Gilbert	44/1
Phil Gilchrist	45/1
Theresa Goodwin	46/1
Wayne Graham	47/1
Ali Grant	48/1
Juliet Hall	49/1
John Hallum	50/1
Karen Hallum	51/1
Ron Hallby	52/1
John Hane	53/1
Joss Harris	54/1
Jill Herbert	55/1
Louise Heslin	56/1
Bruce Hewitt	57/1
Kerry Higgins	58/1
Kevin and Erin Higgins	59/1
Higgins Earthmoving	60/1
Peter Francis Higgins	61/1
PR Higgins	62/1
Highland Capital Partners	63/1, 63/2, 63/3, 63/4

David Hoogouw	64/1
Leah Hopkinson	65/1
J and N Huddleston	66/1, 66/2, 66/3, 66/4
Janice Hughes and Clayton Hope	67/1
Michael Hughes	68/1
Steve Humpherson	69/1, 69/2
Infinity Investments Limited	70/1
Jan Johnson	71/1
Wayne Johnson	72/1
Helen Johnston	73/1
T and J Johnston	74/1
M W Johnston	75/1
Carrick Lawrence Jones	76/1
Kirsten Jones	77/1
Ryan Jones	78/1
Kati Huirapa Runaka ki Puketeraki	79/1, 79/2
Trevor David Kennedy	80/1
M C Kelly	81/1
Rod Key	82/1
Kevin King	83/1
Paul Knowles	84/1
Lake Wanaka Cycling Inc	85/1, 85/2
Christine Langford	86/1
Mark Langford	87/1
Joy Leslie	88/1
Ross Liddell	89/1
Gill Lucas	90/1
Craig Lyon	91/1
Heather MacDonald	92/1
Katy Macpherson	93/1
Peter Macpherson	94/1
Janet Malloch	95/1
Lyn Marshall	96/1
Peter Marshall	97/1
John May	98/1
Keith McArley	99/1
Yeverly McCarthy	100/1
Sylvienne McClelland	101/1
Thomas McClelland	102/1
Karina McConnell	103/1
Duncan McFarlane	104/1
Russell and Pamela McGeorge	105/1
Stu and Jan Mclvor	106/1
J McRae	107/1
Nancy Minty	108/1
Colin Moorfoot	109/1

Ray Mulqueen	110/1
Victoria Murray-Orr	111/1
Chris Norman	112/1, 112/2
Gregory Noye	113/1
J Oakden	114/1
Bob Oldham	115/1
Otago Regional Council	116/1, 116/2, 116/3, 116/4, 116/5
Boyd Ottrey	117/1
Alexis Park	118/1
Mac Passmore	119/1
Julie Perry	120/1, 120/2, 120/3, 120/4
Dan Pinckney	121/1
Travis Purnell	122/1
Kerry Quin	123/1
Ross Rainsford	124/1
David Recordon	125/1
Peter Rhodes	126/1
R M Robertson	127/1
Pete Roberts	128/1
Sue Robins	129/1
Steve Schikker	130/1
CD Scurr	131/1, 131/2
EV Scurr	132/1, 132/2
Mike Scurr	133/1
Richard Sheldon	134/1
Darren Simmonds	135/1
David Smallbone	136/1
Robert Smith	137/1
Vicki Spearing	138/1
R K Steel	139/1
Kurt Taylor	140/1
Melonie Telk	141/1
Phillip Templeton	142/1
Chris Thompson	143/1
Dennis Thorn	144/1, 144/2, 144/3, 144/4, 144/5, 144/6, 144/7, 144/8
Fergus Turnbull	145/1
Jack Turnbull	146/1
Upper Clutha Environmental Society	147/1, 147/2, 147/3, 147/4, 147/5
Michaela Utesena	148/1
Hetty Van Hale	149/1
David Varmey	150/1
Derrick and Myra Wales	151/1
Tim Wallis	152/1
Toby Wallis	153/1
Iain Weir	154/1

Martyn West	155/1
Norman West	156/1
Robin and Alison Whitting	157/1
Ben Wilson	158/1
Glenys Wilson	159/1
Jayne Wilson	160/1
Matthew Wilson	161/1
Robert and Prue Wilson	162/1
Lynette Winsloe	163/1
<b>Further submissions</b>	
RO Boyd	300/28/1; 300/74/1; 300/79/2; 300/98/1; 300/120/1, 2, 3, 4; 300/144/1, 2, 3, 4, 5, 6, 7, 8; 300/147/1, 2, 3; 300/148/1; 300/70/1
Infinity Investments Limited	301/116/1; 301/116/4; 301/69/2; 301/66/1, 2, 3, 4; 301/15/1; 301/15/2; 301/147/1, 2, 3; 301/147/4; 301/112/2; 301/79/1, 2; 301/74/1; 301/63/1, 2, 3, 4; 301/10/1; 301/10/2; 301/10/3; 301/10/4; 301/148/1; 301/144/1; 301/144/2; 301/144/3; 301/144/4; 301/144/6; 301/144/7; 301/120/1; 301/120/2; 301/120/3; 301/120/4; 301/98/1a; 301/98/1b; 301/28/1; 301/28/2;
Otago Regional Council	302/26/1
Geoff Perry	303/85/2
Julie Perry	304/10/1, 2, 3, 4; 304/28/1, 2; 304/74/1; 304/98/1; 304/144/1, 2, 3, 4, 5, 6, 7, 8; 304/147/1, 2, 3, 4, 5; 304/148/1; 305/70/1; 305/79/2
Dennis Thorn	305/147/2, 3; 305/10/1; 305/74/1; 305/120/3; 305/148/1;
Upper Clutha Environmental Society	306/70/1
Michaela Utesena	307/148/1

#### 4.0 THE HEARING

The Hearing to consider submissions to Variation 25 - Peninsula Bay commenced at 9am on 10 April 2006 at the Edgewater Resort, Wanaka. The Hearings Panel consisted of Mr David Collins (chairperson, hearings commissioner), Councillor Lou Alfeld, and Mr Lyal Cocks (Wanaka Community Board member). In attendance at the hearing were Ms Jenny Parker (Policy Planner), Mr Ben Espie (Landscape Architect) and Ms Cathy Walker (Secretary).

The Panel held a 'call over' on the Monday morning, providing submitters who wished to be heard the opportunity to supply any written submissions, and to identify how long they anticipated they would need for their oral submissions. The hearings process was explained, and a speaking order established. Because of the unavailability of some witnesses for Infinity Investments Limited on the Tuesday, it was decided that the hearing would be adjourned until Wednesday morning, commencing at 9am. This would enable the Panel to read through the submissions lodged by Infinity, and conduct site visits.

The following provides a summary of the verbal and written evidence presented to the Panel on Wednesday 12 April:



**4.1 Infinity Investments Limited** (original submission [70/1] and further submissions 301/116/1; 301/116/4; 301/69/2; 301/66/1, 2, 3, 4; 301/15/1; 301/15/2; 301/147/1, 2, 3; 301/147/4; 301/112/2; 301/79/1, 2; 301/74/1; 301/63/1, 2, 3, 4; 301/10/1; 301/10/2; 301/10/3; 301/10/4; 301/148/1; 301/144/1; 301/144/2; 301/144/3; 301/144/4; 301/144/6; 301/144/7; 301/120/1; 301/120/2; 301/120/3; 301/120/4; 301/98/1a; 301/98/1b; 301/28/1; 301/28/2)

Dr Royden Somerville, QC, provided opening submissions for Infinity Investments Limited. He identified that Infinity Investment Group supports Variation 25, and identified that statements of evidence were provided by Donald Miskell (Landscape Architect), Clinton Bird (Urban Design), John Kyle (Resource Management Planner), Michael Copeland (Economist), Donald McKenzie (Traffic Engineer), Mike Botting (Surveyor), Kenneth Gousmett (Infrastructure Engineer), Robert Greenaway (Leisure and Open Space Planner).

Dr Somerville identified that Infinity also supported the recommendations of the planner's report except for two matters, being the non-notification provisions for the Outline Development Plan and the additional requirement for subdivision consent to create access easements in the Open Space Zone.

Dr Somerville then discussed the relevance of Variation 15 and identified the key differences between Variations 15 and 25. He identified that there were two principal reasons for the Court to cancel Variation 15. The first reason related to landscape, ecology and amenity values of the northern and eastern edges of the site. Dr Somerville submitted that protection of these areas within the site through the implementation of the Open Space Zone resolved this first reason. Dr Somerville then identified the second principal reason as urbanisation, consolidation and urban form. He then identified that this reason has been addressed through:

- further information
- the presentation of expert evidence (including economic and urban design matters)
- the integration of the residential component of site development with the protection of the northern and eastern edges of the site from any development
- the further consultation
- the statutory changes concerning Section 32.

Dr Somerville then identified the key components of Section 32 of the Resource Management Act, and their implications for the consideration of Peninsula Bay.

Dr Somerville also identified an error in the Zone map as notified with the Variation, in that the open space zone cuts in just above the proposed access from Hunter Road. This is an error, and if retained, would result in the requirement for a non-complying activity consent for this small piece of road. He requested that the Panel resolve to amend the Zone Plan, and that such an amendment is *vires* because it is required to correct a minor error.

The evidence presented for Infinity supported the findings of the Section 32, and aided the Panel in their consideration of the Variation. The evidence supported most of the recommendations made in the planner's report, in particular, the recommendations to amend the zone boundaries to the north of the site. However, Mr John Kyle (Resource management) opposed the changes recommended with respect to non-notification and establishing public access easements. He suggested that instead of amending the notification provisions, that a public open day should be held that enables the community of Wanaka to have input into the Outline Development Plan.

**4.2 Julian Haworth, representing the Upper Clutha Environmental Society** (Original submissions [147/1, 147/2, 147/3, 147/4, 147/5] and further submission 306/70/1) presented oral submissions. The Society is supportive of the recommendations made in the planners report, and believes that the benefits to the community of the significant areas of open space (being 35% of the site) outweigh any potential costs associated with the change in zoning. Mr Haworth raised concerns regarding the use of a QEII covenant, and identified that the Society would prefer to see the Open Space vested as reserve with the Council. He identified that he supported the concept of using the Urban Design Panel, and providing for public involvement in the Outline Development Master Plan process (ODP). He suggested that if public involvement was assured, formal notification provisions were not needed.

**4.3 Dennis Thorn** (original submissions [144/1, 144/2, 144/3, 144/4, 144/5, 144/6, 144/7, 144/8] and further submissions 305/147/2, 3; 305/10/1; 305/74/1; 305/120/3; 305/148/1) presented submissions opposing the Variation, consistent with his original and further submissions to the Variation. He submitted that the Council has misinterpreted the decision of the Environment Court on Variation 15, and that no strategic planning study has been undertaken in order to identify whether there are other sites which could be developed first. Mr Thorn also presented 'alternative submissions', and an alternative 'Plan C', which was submitted as evidence on the first day of the hearing. While Mr Thorn agrees with the amendments proposed in the planners report, he believes that these changes have not gone anywhere near to achieving the purpose of the Variation. Instead, he believes that the Variation errs on the side of the developer.

Mr Thorn submitted that following the previous Activity Area 2 line to demarcate the boundary of the Low Density Residential Zone on the eastern edge of the site does not make sense, and proposes that the appropriate line is the 340m contour. In terms of the open space zone, Mr Thorn supports vesting as reserve, and supports the proposal by Infinity that it could be subject to a QEII covenant. Mr Thorn then discussed access or buffer strips, identifying that the western buffer should extend along the entire southern boundary.

Mr Thorn emphasised his support for Rural Residential Zoning. He submitted that Rural Residential Zoning is a feature of the Beacon Point Housing precinct; obviously to accommodate the influence of the lake and landscape qualities of the area. Finally, Mr Thorn questions the need to amend the planners recommendations as they relate to specific rules, as had been suggested by Mr Kyle for Infinity.

**4.4 Rick Boyd on behalf of Julie Perry** (original submissions [120/1, 120/2, 120/3, 120/4] and further submissions 304/10/1, 2, 3, 4; 304/28/1, 2; 304/74/1; 304/98/1; 304/144/1, 2, 3, 4, 5, 6, 7, 8; 304/147/1, 2, 3, 4, 5; 304/148/1; 305/70/1; 305/79/2) submitted in opposition to the Variation, consistent with her original submissions. Ms Perry opposes the proposal to use the ODP process through a non-notified process. She believes that the western buffer needs to be extended, and submitted that Peninsula Bay is a sensitive area, and would better suit Rural Residential Zoning.

**4.5 Rick Boyd** (original submissions [10/1, 10/2, 10/3, 10/4] and further submissions 300/28/1; 300/74/1; 300/79/2; 300/98/1; 300/120/1, 2, 3, 4; 300/144/1, 2, 3, 4, 5, 6, 7, 8; 300/147/1, 2, 3; 300/148/1; 300/70/1) presented submissions that identified key issues arising from the planner's report and the evidence of some of the witnesses of Infinity Investments Limited. He supports the recommended amendments to the zone boundary to better protect landscape values. At the hearing, Mr Boyd submitted that the planner's report did not address the potential effects of subdivision of Peninsula Bay on Penrith Park, and that there are a number of tools that could be used to minimise these impacts, including the use of an open space buffer, or a lower density development. Mr Boyd also made submissions with respect to the Western Buffer, submitting that it should be

extended by around 70 metres so that it could give direct access to the Central Melt Channel from Penrith Park.

Mr Boyd believes that the western buffer should extend to at least Minaret Ridge in order to provide access to the Central Melt Channel from Penrith Park. He believes that the planners report fails to address effective public access into the Central Melt Channel. Mr Boyd submitted that the arguments against Rural Residential Zoning promoted in the planners report and evidence for Infinity are not convincing. He believes that there is a need to soften the impact of residential development, and that this can be achieved through the larger lot sizes of Rural Residential zoning.

Mr Boyd recognised that in his original submissions he identified the possible need for a road through the Central Melt Channel. He clarified that he supported only a single road, and that any services to the northern residential area should be placed beneath the carriageway to minimise any effects of development on the Central Melt Channel.

With respect to the ODP, Mr Boyd was still concerned about the lack of opportunities for public input. He identified that it is often the details of a subdivision that are of most importance to the adjacent community. Mr Boyd submitted that there should be a right of public access over all of the Open Space Zone, and re-emphasised the need to vest the open space as reserve. He then identified key management issues that need to be addressed for the open space zone.

Mr Boyd submitted that there is a need to soften the impact of residential development on the environmental attributes of adjacent areas, and zoning the area north of the central melt channel Rural Residential would be unlikely to contribute measurably to urban sprawl.

- 4.6 John May** (original submission [98/1] presented oral submissions. Mr May pointed out the discrepancy in the Plan provisions that would enable a potential 900 lots, instead of the 400 assumed throughout the Section 32 analyses. Mr May emphasised the importance of enabling public input into the ODP process. He was comfortable with a process requiring a public open day, rather than the formal notification provisions of the RMA. However, he identified that there needed to be assurance that a robust process was in place. He commented that while he thought the ODP process is innovative, he could not see why these issues could not be dealt with through the Variation process.

Mr May identified that there is likely to be a walkway linkage provided through the Kirimoko Block to the eastern open space zone within Peninsula Bay. He questioned the process of including Peninsula Bay as a stage 1 plan change within the Structure Plan. He queried the use of the word 'review' by the Urban Design Panel, and questioned whether it is strong enough.

## **5.0 DECISIONS**

### **5.1 QUESTION OF WHETHER THE VARIATION SHOULD PROCEED**

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

**Stephen Abell [1/1], Kevin Alderson [2/1], Sharon Alderson [3/1], Mathew Andrews [4/1], Tony Arnerich [5/1], Jeremy Bell [6/1], Murray and Robin Bennet [7/1], Big River [8/1], Black Bag Ltd [9/1], Harry Briggs [11/1], Jo Briggs [12/1], Howard Brown [13/1], Jeanette Brown [14/1], Tony Brown [16/1], Peter Bullen [17/1], Blair Burrridge [18/1], Rosie Burrridge [19/1], Stew Burt [20/1], K R Chandler [21/1], Alan Collie [22/1], Stephen Collie [23/1], Barbara Collie [24/1], Colquin Holdings Limited [25/1], Dwayne Crombie [27/1], Adrian John Cross**

[29/1], **Jonathon Roland Dale** [30/1], **Lisa Davis** [31/1], **Harry Dickey** [32/1], **Sharon Donnelly** [33/1], **P L Duff** [34/1], **Ralph Fegan** [35/1], **LE and JM Ferguson** [36/1], **Graeme Findlay/Kate O'Brien** [37/1], **Deane Flint** [38/1], **Howard Fraser** [39/1], **Murray Frost** [40/1], **Neville Frost** [41/1], **Barry Gard** [42/1], **Rachel Gard** [43/1], **Peter Gilbert** [44/1], **Phil Gilchrist** [45/1], **Theresa Goodwin** [46/1], **Wayne Graham** [47/1], **Ali Grant** [48/1], **Juliet Hall** [49/1], **John Hallum** [50/1], **Karen Hallum** [51/1], **Ron Hallby** [52/1], **John Hane** [53/1], **Joss Harris** [54/1], **Jill Herbert** [55/1], **Louise Heslin** [56/1], **Bruce Hewitt** [57/1], **Kerry Higgins** [58/1], **Kevin and Erin Higgins** [59/1], **Higgins Earthmoving** [60/1], **Peter Francis Higgins** [61/1], **PR Higgins** [62/1], **David Hoogouw** [64/1], **Leah Hopkinson** [65/1], **Janice Hughes and Clayton Hope** [67/1], **Michael Hughes** [68/1], **Steve Humpherson** [69/1], **Infinity Investments Limited** [70/1], **Jan Johnson** [71/1], **Wayne Johnson** [72/1], **Helen Johnston** [73/1], **M W Johnston** [75/1], **Carrick Lawrence Jones** [76/1], **Kirsten Jones** [77/1], **Ryan Jones** [78/1], **Trevor David Kennedy** [80/1], **M C Kelly** [81/1], **Rod Key** [82/1], **Kevin King** [83/1], **Paul Knowles** [84/1], **Lake Wanaka Cycling Inc** [85/1], **Christine Langford** [86/1], **Mark Langford** [87/1], **Joy Leslie** [88/1], **Ross Liddell** [89/1], **Gill Lucas** [90/1], **Craig Lyon** [91/1], **Heather MacDonald** [92/1], **Katy Macpherson** [93/1], **Peter Macpherson** [94/1], **Janet Malloch** [95/1], **Lyn Marshall** [96/1], **Peter Marshall** [97/1], **Keith McArley** [99/1], **Yeverly McCarthy** [100/1], **Sylvienne McClelland** [101/1], **Thomas McClelland** [102/1], **Karina McConnell** [103/1], **Duncan McFarlane** [104/1], **Stu and Jan McIvor** [106/1], **J McRae** [107/1], **Nancy Minty** [108/1], **Colin Moorfoot** [109/1], **Ray Mulqueen** [110/1], **Victoria Murray-Orr** [111/1], **Chris Norman** [112/1], **Gregory Noye** [113/1], **J Oakden** [114/1], **Bob Oldham** [115/1], **Boyd Ottrey** [117/1], **Alexis Park** [118/1], **Mac Passmore** [119/1], **Dan Pinckney** [121/1], **Travis Purnell** [122/1], **Kerry Quin** [123/1], **Ross Rainsford** [124/1], **David Recordon** [125/1], **Peter Rhodes** [126/1], **R M Robertson** [127/1], **Pete Roberts** [128/1], **Sue Robins** [129/1], **Steve Schikker** [130/1], **CD Scurr** [131/1], **EV Scurr** [132/1], **Mike Scurr** [133/1], **Richard Sheldon** [134/1], **Darren Simmonds** [135/1], **David Smallbone** [136/1], **Robert Smith** [137/1], **Vicki Spearing** [138/1], **R K Steel** [139/1], **Kurt Taylor** [140/1], **Melonie Telk** [141/1], **Phillip Templeton** [142/1], **Chris Thompson** [143/1], **Fergus Turnbull** [145/1], **Jack Turnbull** [146/1], **Hetty Van Hale** [149/1], **David Varmey** [150/1], **Derrick and Myra Wales** [151/1], **Tim Wallis** [152/1], **Toby Wallis** [153/1], **Iain Weir** [154/1], **Martyn West** [155/1], **Norman West** [156/1], **Robin and Alison Whitting** [157/1], **Ben Wilson** [158/1], **Glenys Wilson** [159/1], **Jayne Wilson** [160/1], **Matthew Wilson** [161/1], **Robert and Prue Wilson** [162/1], **Lynette Winsloe** [163/1]

**RO Boyd** [300/70/1], **Dennis Thorn** [305/70/1] and **Upper Clutha Environmental Society** [306/70/1] oppose the submission of **Infinity Investments Limited**.

The following submitters oppose the Variation:

**RO Boyd** [10/4], **Gary and Heather Crombie** [28/1] submit that the Peninsula Bay land should remain Rural General. **John May** [98/1] submits that the Variation should either be altered significantly to consider his concerns raised, or declined. **Dennis Thorn** [144/1] and [144/7] opposes the Variation and submits that it should be abandoned, and that consequential to deleting the Variation the proposed amendments to Section 7 should be deleted. **Michaela Utesena** [148/1] submits that the Variation should be cancelled, unless it can be proven it is needed. She requests that clarification is provided as to why the land needs to be rezoned, and why Peninsula Bay is the highest priority. **Upper Clutha Environmental Society** [147/5] supports the Variation if the changes are made as requested in their submission, but queries whether it is needed at this time.

**RO Boyd** supports the submissions of **Gary and Heather Crombie** [300/28/1], **Dennis Thorn** [300/144/1] and **Michaela Utesena** [300/148/1].

**Infinity Investments Limited** opposes the submissions of **RO Boyd** [301/10/4], **Michaela Utesena** [301/148/1], **John May** [301/98/1], **Gary and Heather Crombie** [301/28/1] and **Dennis Thorn** [301/144/1] and [301/144/7]

*Julie Perry supports the submissions of RO Boyd [304/10/4], Gary and Heather Crombie [304/28/1], John May [304/98/1], Dennis Thorn [304/144/1] and [304/144/7], Upper Clutha Environmental Society [304/147/5] and Michaela Utesena [304/147/1]*

*Dennis Thorn supports the submission of Michaela Utesena [305/148/1].*

*Michaela Utesena supports the submission of Michaela Utesena [307/148/1].*

### **5.1.1 Explanation of Submissions**

The reasons for support can be summarised as follows:

**Wanaka 2020/Wanaka Structure Plan-** The Variation is a positive initiative towards addressing the growth issues in a controlled manner. It is a positive step forward in implementing the community driven Wanaka Structure Plan and contributing towards the Wanaka 2020 vision. The Variation is in line with the objectives of the Wanaka Structure Plan and provides for the future growth of the town in a sustainable fashion.

**Open Space and Landscape Preservation-** The Variation integrates and provides for residential opportunities whilst preserving the overall characteristics and amenity of the area. The open space zones will provide Council with a mechanism for retaining open space values where land is deemed to be worthy of protection for landscape, natural character or recreational reasons. The open space areas will allow the public access to the lake and will provide for passive recreational opportunities such as walking and cycling.

**Low Density Residential-** The low density residential parts of the Peninsula Bay site are an appropriate means of achieving growth, whilst also enabling a high level of amenity. Amenity will be preserved by the presence of larger lot sizes, fewer dwellings and areas of open space. The proposed low density and open space rules are supported, as they ensure buildings and landscaping are integrated with, and complementary to, the surrounding landscape setting.

Infinity Investments Limited submit that the Variation is consistent with the growth management goals set out within Wanaka 2020 and Wanaka Structure Plan. The Structure Plan was identified as the first stage in the zoning process, and identified an inner and outer growth boundary. Peninsula Bay is within the inner growth boundary, and is consistent with the objectives of the structure plan. The Structure Plan discusses the need to stage development, and identifies that Peninsula Bay should be part of the first stage. The need for Peninsula Bay has been thoroughly assessed. The Section 32 is robust in its analysis of issues and alternatives, and the assessment of alternatives provides justification for the Variation. It is clear from the Section 32 that the do nothing option would contribute little to the community and would ignore existing development pressures on the town. The Variation is consistent with existing objectives and policies of the Partially Operative District Plan. It ensures that Low Density Residential Zoning will be restricted to those areas of the site where it can be absorbed. Those areas of sensitivity will be protected through open space zoning. The consultation undertaken is commendable. The objectives of the open space zone are effective in terms of achieving preservation of open space and landscape values. The design controls initiated by the requirement to prepare an outline development master plan will ensure adverse effects can be avoided, remedied or mitigated. The Variation is necessary to achieve the purpose of the Act. If Council fails to integrate new areas into the township in a planned and comprehensive way there could be continuing pressure to develop land within the Rural General Zone on an ad hoc basis via resource consents. This would go against the purpose and principles of the RMA.

The reasons for opposition can be summarised as:

RO Boyd submits that the Section 32 analysis that Infinity Investments Limited relies on is not robust and fails to address whether or not the Variation is necessary, and fails to effectively integrate the proposed zone with adjacent land use. He agrees that a significant portion of Peninsula Bay may be suitable for residential development, provided that the environmental values of adjacent land are protected.

Dennis Thorn submits that the Variation is not necessary. Residential development on Peninsula Bay was presented to Wanaka 2020 as a done deal; this followed through to the structure plan. The need for Peninsula Bay has not been thoroughly assessed in the Section 32. There is no assessment of alternatives in the Section 32. The Variation ignores objectives 4.2.5.1 and policy 4.2.5(6)(b) of the District Plan. Adequate consultation in terms of the Open Space Zone has not been undertaken; the open space zone has never been put to the public either through Wanaka 2020, Wanaka Structure plan or consultation for Variation 25. The Section 32 report fails to look at the effects of the new zone district wide with a mass of open space under the control of developers. The public have been misled by the public notice.

The Upper Clutha Environmental Society disagrees that by creating the open space zone landscape values will be preserved and protected and also questions whether the Variation is needed at this time.

Gary and Heather Crombie believe that Rural General Zoning across Peninsula Bay would ensure that any development is absorbed into the landscape, they identify that visual amenity landscape requires greater protection than what can be afforded by Low Density Residential Zoning. They believe that the development within The Terraces and Lakeridge offers a transition between Low Density Residential Areas and the Rural Zone of Peninsula Bay.

John May is concerned that the Variation does not provide enough detail of how cross boundary issues will be managed.

Michaela Utesena submits that the Variation is not necessary. In her further submission, she calculates that based on the findings of the dwelling capacity report, there is capacity within Wanaka for 26 years, and questions the need to rezone Peninsula Bay, particularly when there are other areas closer to Wanaka that would better absorb the development.

Infinity Investments Limited opposes those submissions that request the abandonment of the Variation. They submit that this is inconsistent with the purpose and principles of the RMA. The need for a Variation has thoroughly been assessed and an objective rationale supporting the Variation has been obtained by the section 32 analysis and the Wanaka 2020 and Wanaka Structure Plan. They identify that the Wanaka region is under considerable growth pressure and it is important that there is adequate land zoned for residential use. Peninsula Bay is located within the inner growth boundary of Wanaka, identifying it as one of the first areas to be considered for residential zoning.

### **5.1.2 Consideration**

The evidence provided to the Hearings Panel shows that other than Kirimoko, there are no other greenfields areas that can be readily serviced in terms of infrastructure. Through the course of the hearing, it was identified that there is no need to delay this Variation; it respects the landscape values of the site, provides significant open space for the Wanaka Community, and is consistent with the Wanaka Structure Plan. The economic evidence presented at the hearing showed that this rezoning is necessary. Detailed evidence was given about the capacity of the existing zoning (about 2,850 dwellings), the rate of new dwelling construction (about 200 per year), and the need to ensure an adequate forward supply of zoned land if demand is to be met. The panel has considered whether there is any reason to restrict the supply of zoned land in Wanaka. The enabling purpose of the Act set out in section 5 suggests that the District Plan should enable this demand to be met unless there are environmental reasons not to. The evidence showed that use of the Peninsula Bay land as proposed does raise important environmental concerns, but the panel is satisfied that these can be adequately addressed.

It has been found that cancelling this Variation would result in ad hoc development scattered around Wanaka, instead of a comprehensive development linked to the existing residential zones.

The Urban Design evidence provided for Infinity Investments by Professor Clinton Bird identified alternative growth options for Wanaka. These were

- (a) growth through subdivision and infilling of existing residential lots;
- (b) growth on vacant land within the inner and outer growth boundaries;
- (c) growth on vacant land beyond the outer growth boundaries

Following an analysis of the costs and benefits of each of these options, Professor Bird found that of the three options, a combination of (a) 'infill' and (b) 'managed growth on vacant land' would be preferable for the immediate and foreseeable future.

The Section 32 analysis identifies that Variation 25 is the most appropriate option for the Peninsula Bay land. It is agreed that this Variation is consistent with Wanaka 2020 and the Wanaka Structure Plan.

It is noted however that following consideration of other submissions that raise concerns regarding the boundaries of the new low density residential zone, some amendments to the zone boundaries are recommended. These ensure further that the Variation is the most appropriate means of achieving Part II of the RMA. They result in the land area of the Open Space Zone being 35% of the Peninsula Bay site, creating a significant benefit to the Wanaka community.

In terms of the concerns raised by further submitters with respect to the Open Space Zone, the public notice that was published notifying the Peninsula Bay Variation was not in error, because the Open Space Zone only applies to the Peninsula Bay land. If in the future it is applied to other land, this would be achieved through a plan change process, and as a result, it would be subject to a separate section 32 analysis, and separate public notification.

Variation 25 respects Environment Court decision C010/2005, and excludes all of that land identified by the Court as sensitive from the proposed Low Density Residential Zone. Instead, it rezones those more sensitive areas Open Space Zone, which provides far greater protection than Rural General Zoning.

Part 12.1 of the Section 32 report finds that retaining Rural General Zoning is not the most appropriate option.

When considering the issue of need, it is important to have regard to the findings of the Environment Court on Variation 15 (decision C010/2005). In paragraph 166 of that decision the Court finds that the Variation has to be desirable or expedient for achieving the purpose of the Act, being the sustainable management of the natural and physical resources concerned. Then, in paragraph 170, it finds:

*The Council's wishes to consolidate residential growth at Wanaka so as to avoid sprawl, and to provide a variety of densities, could be achieved without providing for the site to be zoned as proposed. If those wishes were achieved without the proposed rezoning of the site, the significant native vegetation on the site would not be placed at risk, nor would the landscape and visual amenity values, to which the northern and eastern edges of the site could continue to contribute if undeveloped. [emphasis added]*

This finding was based on Variation 15; i.e. a proposal that incorporated the development of areas found as sensitive in both landscape and ecological terms.

By ensuring the protection of both sensitive landscape areas and areas of ecological value, Variation 25 meets the criteria as established by the Court; it is desirable and expedient for achieving the two main elements of the purpose of the Act, being:

- *enabling people and communities to provide for their social, economic and cultural wellbeing, health and safety; while*

- *safeguarding the capacity of ecosystems, and avoiding, remedying and mitigating adverse environmental effects.*

The issue of the need for the rezoning is discussed on pages 27-29 of the Section 32 analysis, and was supported by the evidence provided by Mr Copeland. This identifies that there is a need to provide at least an additional 100 dwellings per year. It also discusses the issue of whether the Council should become involved in regulating supply, and if in fact it can given the resource consent and private plan change processes.

Given the above discussion, it is considered appropriate that the Peninsula Bay site is used to accommodate future growth for the following reasons:

- The Environment Court found that development of those areas outside of the original activity areas 2 and 5 would not have significant landscape and visual amenity effects<sup>1</sup>;
- The use of the site for residential purposes is supported by Wanaka 2020 and the Wanaka Structure Plan;
- It is important to zone land before it is needed, to ensure that the land identified by the community, and able to be supplied effectively and efficiently by infrastructure, is used before land less suitable is developed;
- By removing those more sensitive areas of the site and providing greater protection, it is believed that the Variation is expedient, and is necessary in order to achieve the purpose of the Act.

Dennis Thorn submits that alternative sites should have been considered. In paragraph 187 of decision C010/2005, the Environment Court found that determining whether the Variation is the most appropriate means of exercising Councils functions under the Act does not require consideration of whether the Variation is the most appropriate in comparison with development of other sites.

In paragraph 198 of the decision, the Court considered whether the objectives and policies of Part 4 of the Plan, specifically, Policy 4.2.5.1, direct the Council to identify parts of the District with greater potential to absorb change.

It found that instead of considering other sites, the appropriate question is whether the development that the Variation would authorise:

- *would avoid, remedy or mitigate adverse effects on landscape and visual amenity values;*
- *would do so in an area where they are vulnerable to degradation, rather than having potential to absorb change without detracting from those values; and*
- *would harmonise with local topography and ecological systems and other nature conservation values as far as possible.*

The Court found that the development authorised by Variation 15 would not, in respect of the northern and eastern edges, achieve the above criteria (derived from policy 4.2.5.1(a)(b) and(c)).

In comparison, Variation 25 protects the northern and eastern edges of the site and therefore achieves Policy 4.2.5.1 by meeting the above criteria. The ability of the Variation to achieve all relevant objectives and policies of Part 4 of the Plan is contained within parts 11 and 12 of the Section 32 analysis.

It is believed that through the preparation of Variation 25 the concerns of the Environment Court have been addressed, including whether the variation is necessary, and achieves the purpose of the Act.

The issues of consolidation were considered through the Urban Design Report commissioned as part of the Section 32 analysis, the Section 32 analysis itself, and in the evidence presented by

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<sup>1</sup> Environment Court decision C010/2005, paragraph 148



Professor Bird. Peninsula Bay adjoins residential development on two sides, and when viewed from the lake or from Waterfall Creek, is viewed in the context of that development.

The concerns raised by John May are discussed further in Section 5.7 of this report, as they relate to cross boundary issues with Kirimoko, and the use of the Outline Development Plan.

### 5.1.3 Decision

That the following submissions are accepted in part; that part accepted is the approval of the Variation, that part not accepted is that it is recommended that some amendments are made to the Variation as notified in response to concerns raised in other submissions, and therefore the Variation is not accepted in its entirety.

**Stephen Abell [1/1], Kevin Alderson [2/1], Sharon Alderson [3/1], Mathew Andrews [4/1], Tony Arnerich [5/1], Jeremy Bell [6/1], Murray and Robin Bennet [7/1], Big River [8/1], Black Bag Ltd [9/1], Harry Briggs [11/1], Jo Briggs [12/1], Howard Brown [13/1], Jeanette Brown [14/1], Tony Brown [16/1], Peter Bullen [17/1], Blair Burrridge [18/1], Rosie Burrridge [19/1], Stew Burt [20/1], K R Chandler [21/1], Alan Collie [22/1], Stephen Collie [23/1], Barbara Collie [24/1], Colquin Holdings Limited [25/1], Dwayne Crombie [27/1], Adrian John Cross [29/1], Jonathon Roland Dale [30/1], Lisa Davis [31/1], Harry Dickey [32/1], Sharon Donnelly [33/1], P L Duff [34/1], Ralph Fegan [35/1], LE and JM Ferguson [36/1], Graeme Findlay/Kate O'Brien [37/1], Deane Flint [38/1], Howard Fraser [39/1], Murray Frost [40/1], Neville Frost [41/1], Barry Gard [42/1], Rachel Gard [43/1], Peter Gilbert [44/1], Phil Gilchrist [45/1], Theresa Goodwin [46/1], Wayne Graham [47/1], Ali Grant [48/1], Juliet Hall [49/1], John Hallum [50/1], Karen Hallum [51/1], Ron Hallby [52/1], John Hane [53/1], Joss Harris [54/1], Jill Herbert [55/1], Louise Heslin [56/1], Bruce Hewitt [57/1], Kerry Higgins [58/1], Kevin and Erin Higgins [59/1], Higgins Earthmoving [60/1], Peter Francis Higgins [61/1], PR Higgins [62/1], David Hoogouw [64/1], Leah Hopkinson [65/1], Janice Hughes and Clayton Hope [67/1], Michael Hughes [68/1], Steve Humpherson [69/1], Infinity Investments Limited [70/1], Jan Johnson [71/1], Wayne Johnson [72/1], Helen Johnston [73/1], M W Johnston [75/1], Carrick Lawrence Jones [76/1], Kirsten Jones [77/1], Ryan Jones [78/1], Trevor David Kennedy [80/1], M C Kelly [81/1], Rod Key [82/1], Kevin King [83/1], Paul Knowles [84/1], Lake Wanaka Cycling Inc [85/1], Christine Langford [86/1], Mark Langford [87/1], Joy Leslie [88/1], Ross Liddell [89/1], Gill Lucas [90/1], Craig Lyon [91/1], Heather MacDonald [92/1], Katy Macpherson [93/1], Peter Macpherson [94/1], Janet Malloch [95/1], Lyn Marshall [96/1], Peter Marshall [97/1], Keith McArley [99/1], Yeverly McCarthy [100/1], Sylvienne McClelland [101/1], Thomas McClelland [102/1], Karina McConnell [103/1], Duncan McFarlane [104/1], Stu and Jan McIvor [106/1], J McRae [107/1], Nancy Minty [108/1], Colin Moorfoot [109/1], Ray Mulqueen [110/1], Victoria Murray-Orr [111/1], Chris Norman [112/1], Gregory Noye [113/1], J Oakden [114/1], Bob Oldham [115/1], Boyd Ottrey [117/1], Alexis Park [118/1], Mac Passmore [119/1], Dan Pinckney [121/1], Travis Purnell [122/1], Kerry Quin [123/1], Ross Rainsford [124/1], David Recordon [125/1], Peter Rhodes [126/1], R M Robertson [127/1], Pete Roberts [128/1], Sue Robins [129/1], Steve Schikker [130/1], CD Scurr [131/1], EV Scurr [132/1], Mike Scurr [133/1], Richard Sheldon [134/1], Darren Simmonds [135/1], David Smallbone [136/1], Robert Smith [137/1], Vicki Spearing [138/1], R K Steel [139/1], Kurt Taylor [140/1], Melonie Telk [141/1], Phillip Templeton [142/1], Chris Thompson [143/1], Fergus Turnbull [145/1], Jack Turnbull [146/1], Hetty Van Hale [149/1], David Varmey [150/1], Derrick and Myra Wales [151/1], Tim Wallis [152/1], Toby Wallis [153/1], Iain Weir [154/1], Martyn West [155/1], Norman West [156/1], Robin and Alison Whitting [157/1], Ben Wilson [158/1], Glenys Wilson [159/1], Jayne Wilson [160/1], Matthew Wilson [161/1], Robert and Prue Wilson [162/1], Lynette Winsloe [163/1]**

That the further submissions of **RO Boyd [300/70/1], Dennis Thorn [305/70/1]** and **Upper Clutha Environmental Society [306/70/1]** are rejected.

That the submissions of **RO Boyd** [10/4], **Gary and Heather Crombie** [28/1] **Dennis Thorn** [144/1] [144/7] and **Michaela Utesena** [148/1] are rejected, the further submissions of Infinity Investments Limited [301/10/4, [301/148/1], [301/98/1], [301/28/1], [301/144/1] and [301/144/7] are accepted, and the further submissions of RO Boyd [300/28/1],[300/144/1], [300/148/1], Julie Perry [304/10/4], [304/28/1], [304/98/1], [304/144/1], [304/144/7], [304/147/5], [304/147/1] Dennis Thorn [305/148/1] and Michaela Utesena [307/148/1] are rejected.

That the submission of **Upper Clutha Environmental Society** [147/5] and **John May** [98/1] are accepted in part. That part accepted is the adoption of suggested amendments (discussed in other sections of this report), that part not accepted is the request that the Variation is abandoned.

#### **5.1.4 Reasons**

As identified in the Section 32 analysis, the zone amendments promoted by Variation 25 are considered the most appropriate in achieving the purpose of the Act, and the settled objectives and policies of Part 4 of the District Plan. Variation 25 is consistent with the findings of both Wanaka 2020 and the Wanaka Structure Plan. Through changing the boundaries of the proposed residential zoning and ensuring protection of the more sensitive areas within the site, the concerns raised by the Environment Court in its decision on Variation 15 have been resolved.

It is noted that the further submitters raised issues that are dealt with separately within the decision.

## **5.2 AMENDMENTS TO BOUNDARIES OF THE ZONE**

**Upper Clutha Environmental Society (UCESI)** [147/1] and [147/3] submits that the boundary of Open Space Zones should be changed to reflect the Map attached to their submission, and that the Open Space Zone should be vested as reserve, with an underlying zone of Rural General.

**RO Boyd** [300/147/1], [300/147/3] and **Julie Perry** [304/147/1], [304/147/3] support the submission of UCESI.

**Dennis Thorn** [305/147/3] supports the submission of UCESI.

**Infinity Investments Limited** [301/147/1], [301/147/3] opposes in part the submission of UCESI.

**Dennis Thorn** [144/2], [144/3] and [144/4] submits that the zoning plan should be replaced with Map B attached to his submission.

**RO Boyd** [300/144/2], [300/144/3], [300/144/4] and **Julie Perry** [304/144/2], [304/144/3], [304/144/4] support the submission of Dennis Thorn.

**Infinity Investments Limited** [301/144/2], [301/144/3], [301/144/4] opposes the submissions of Dennis Thorn.

### **5.2.1 Explanation of Submissions**

UCESI submit that their request in submission [147/2] would protect the visual amenity of this area, protect areas of kanuka and allow some expansion of kanuka into the gaps, and create a more usefully shaped and sized reserve area for the public.

In submission [147/3] they request that the eastern boundary between Low Density Residential Zone and Open Space Zone follows the line as suggested in the Lucas evidence to the Environment Court- as shown on attached Map A as 'UCES VAL reserve line' (Attached as

Appendix 2 to the Landscape Report). They also identify that for consistency, this reserve boundary should be continued south into the Kirimoko Block.

Infinity submit that the Council's analysis of areas requiring protection is robust. However, they accept that some refinement of these boundaries with community input may be justified.

Dennis Thorn submits that:

- (a) The error in delineating AA5 (of Variation 15) should be corrected, the hatched area be fully protected, and the Western buffer open space should extend up the southern boundary, to tie in access from Rata Street. [147/2]
- (b) A no build zone should be imposed below the eastern open space to approximately the 330m contour line. This would protect the highly visible slopes leading up to the protected area. It was promoted by the Environment Court in the preferred landscape evidence at the hearing for Variation 15. This could be implemented either by extending the open space or imposing a building line restriction. The Open Space Zone could apply to the no build areas. [147/3]
- (c) There should be a mix of Low Density Residential and Rural Residential zoning (with a 5 metre height restriction); the Rural Residential zoning to be in a buffer swath between the Eastern Open Space and the Low Density Residential [147/4].

The Zone boundaries requested by the submitters are included as Appendices 2 and 3(a) and 3(b).

## 5.2.2 Consideration

In response to the concerns raised by UCESI and Dennis Thorn, an additional landscape report was commissioned from Mr Ben Espie (Vivian and Espie Limited). This was attached as Appendix 2 to the planner's report, and provided a valuable analysis of the submissions as they relate to landscape issues. The following provides a summary of the findings of that analysis:

### - *Northern boundary*

The boundary proposed by UCESI is simpler and more robust, and avoids potential effects of dwellings within the red hatched area. It also supports Dennis Thorn's request that the delineation of Activity Area 5 should be corrected.

### - *Eastern boundary*

The proposed amendment to the eastern boundary is of little consequence, but to adopt the suggestion of UCESI would to err on the side of caution, and is therefore supported.

In response to Dennis Thorn's submission that the eastern boundary should be amended significantly, the landscape report finds that Mr Thorn's suggestion would not significantly change the landscape effects of the proposed Variation. It is noted that this is consistent with the finding of the Environment Court<sup>2</sup> that development outside of Activity Areas 2 and 5 would not create significant adverse effects on the landscape. The panel considers that the environmental benefits of requiring even more open space in this area are insufficient to justify preventing it from being developed to meet the needs of the potential future residents who could occupy it.

At the hearing, all submitters were supportive of the new boundaries to the Zone at the northern end, agreeing that the new boundary better protected the landscape and ecological values. Mr Thorn disagreed with the changes to the eastern boundary, submitting that instead of following the previous boundaries of Variation 15, they should follow the 340 metre contour line. The Panel conducted site visits in order to view the site from the lake and surrounding residential areas. Following these visits and the consideration of all the evidence and submissions, the Panel concurred with the findings of Mr Espie.

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<sup>2</sup> Environment Court decision C010/2005, paragraph 148

It is noted that the issues of the extension of the western buffer and rural residential zoning are considered in sections 5.3 and 5.4 of this report, and the issues relating to vesting of Open Space Zone as reserve is dealt with in section 5.8 of this report.

### 5.2.3 Decision

That the submission of **UCESI** [147/1] and [147/3] and further submissions of Infinity Investments Limited [301/147/1], [301/147/3], RO Boyd [300/147/1], [300/147/3], Julie Perry [304/147/1], [304/147/3] and Dennis Thorn [305/147/3] are accepted in part. Those parts accepted are the amendments to the zone plan; those parts not accepted are the requests that the Open Space Zone is vested as reserve.

That the submission of **Dennis Thorn** [144/2] and the further submissions of RO Boyd [300/144/2] and Julie Perry [304/144/2] are accepted in part, and the further submission of Infinity Investments [301/144/2] is rejected. That part of the submission accepted is the amendment to the northern boundary of the Zone, that part not accepted is the recommendation that the western buffer is not extended.

That the submissions of **Dennis Thorn** [144/3] and [144/4] and the further submissions of RO Boyd, [300/144/3], [300/144/4] and Julie Perry [304/144/3], [304/144/4] are rejected, and the further submission of Infinity Investments Limited [301/144/3], [301/144/4] are accepted, and that the zone plan is amended as shown in Appendix 1(a).

Consequential to the amendment to the northern zone boundary to remove the potentially sensitive area, that the following amendment is made to Rule 7.5.3.3 Outline Development Master Plan:

- The location, height and visibility of future dwellings when viewed from the lake to the north of the site, particularly within the north-western corner of the zone ~~(the area shaded xx on planning map yy)~~.

### 5.2.4 Reasons

The amendments to the zone boundaries ensure that potential adverse effects on landscape and ecological values are avoided. The additional changes suggested by Mr Thorn are not considered necessary, and the zoning as proposed in the revised zone plan (attached to this decision) is considered the most appropriate in achieving the purpose of the Act.

## 5.3 EFFECTS ON PENRITH PARK, AND THE WESTERN BUFFER

**RO Boyd** [10/1] submits that Variation 25 should be amended in order to protect the environmental values and amenity of Penrith Park Zone, suggesting that the area of Peninsula Bay that lies adjacent to Penrith Park could be subject to the following types of controls:

- (1) Applying the same controls on external appearance, bulk and location of buildings in this more sensitive area of Peninsula Bay as are applied to Penrith Park (possibly by extending the Penrith Park Zone to incorporate the elevated land along the western boundary of Peninsula Bay).
- (2) Creating a rural residential zone in the northern part of Peninsula Bay where it adjoins Penrith Park;
- (3) Extending the western buffer open space along the full western boundary of Peninsula Bay (with provisions for roads to cross where necessary).

**Julie Perry** [120/1] and [120/2] submits that Peninsula Bay should be subject to a special zone; and that the western buffer should extend along the entire western boundary.

**RO Boyd** [300/120/1, 300/120/2] supports the submissions of Julie Perry.

*Julie Perry [304/10/1] supports the submission of RO Boyd.*

*Infinity Investments Limited [301/10/1], [301/120/1] and [301/120/2] opposes the submission of RO Boyd and the submissions of Julie Perry.*

*Dennis Thorn [305/10/1] supports the submission of RO Boyd.*

### **5.3.1 Explanation of Submissions**

RO Boyd believes the Variation does not adequately protect the northern part of the zone, or protect the amenity, character and environment of the Penrith Park Zone. He submits that the values of Penrith Park are the same as Peninsula Bay and these values within Penrith Park resulted in an Environment Court decision that determined these values should be protected.

RO Boyd believes that parts of the Peninsula Bay site on its western boundary adjacent to the Penrith Park Zone are visible from the Wanaka Basin and from Lake Wanaka and have the same environmental issues as Penrith Park Zone. The Variation does not contain provisions that will adequately protect these parts of Peninsula Bay from inappropriate development.

RO Boyd submits that the Section 32 fails to:

- (1) Consider effects of residential development on the Penrith Park Zone
- (2) Address how Peninsula Bay will ensure that the special environmental values of Penrith Park are not adversely affected.
- (3) Address the conflict between the Penrith Park Zone and the much lesser controls that would exist on identical land within Peninsula Bay.
- (4) Consider existing public use of Peninsula Bay from Penrith Park into the central melt channel through to the Lake.
- (5) Address why the proposed western buffer open space should stop half way along the western boundary, or why it should stop at all.

Dennis Thorn supports the extension of the western open space buffer, and identifies that because of agreements reached between the landowner and the Hunter Crescent residents there is no need to include a buffer along the southern boundary as suggested in his original submission.

At the hearing, both Mr Boyd and Mr Thorn voiced their concerns that the western buffer strip has been used to placate adjoining landowners. Mr Thorn agrees with Mr Boyd that the western buffer should extend through to the lakeside reserve.

Ms Perry believes that the physical characteristics of much of the Peninsula Bay site will be impaired by future residential development, and for this reason development can not be adequately provided for by applying existing zonings within the Plan. Uncontrolled Low Density Residential Zoning would impinge upon the areas of significant landscape and visual amenity values. Specific policies and controls on location, height, and appearance of dwellings are necessary to provide certainty that the development will not adversely affect landscape values. The objectives for the Penrith Park Zone are appropriate for Peninsula Bay. She believes that adopting Penrith Park zoning would provide for public access and a buffer between the Penrith Park Special Zone and Peninsula Bay.

### **5.3.2 Consideration**

The planner's report provided detail of the background to the Penrith Park Zone and provided a comparison of the different provisions of the Low Density Residential, Rural Residential and Penrith Park Zone provisions. This comparison showed that the provisions for Penrith Park are more restrictive than those for the Low Density Residential Zone. The question is then, from a

landscape perspective, is it necessary that this area of Peninsula Bay is subject to the same provisions as the Penrith Park Zone.

The landscape analysis attached to the planner's report as Appendix 2 discusses the landscape characteristics of Penrith Park and Peninsula Bay. In paragraph 42, Mr Espie identifies that:

*"I agree that this elevated strip of the Penrith Park Zone generally shares the same landscape character as the Peninsula Bay site; however, most of the Penrith Park Zone is significantly more prominent in views from the lake surface"*

The report finds that the boundary of the Low Density Residential Zone within Peninsula Bay should be moved slightly the south to follow the 330m contour line. This ensures that only those areas that can absorb development will be zoned Low Density Residential. Other than this suggested amendment, the landscape report identifies that Low Density Residential Zone is appropriate for this area of the site, and finds that from a landscape perspective, there is no need to adopt the Penrith Park zoning on the northern area of Peninsula Bay. While the larger lot sizes and setbacks of the Penrith Park Zone would create a 'greener' development, because this area of Peninsula Bay can absorb development, it is believed that for the purposes of urban consolidation and providing for growth, consistent with the Wanaka Structure Plan and Wanaka 2020, those areas in Peninsula Bay that can absorb development should be zoned Low Density Residential.

The rules applying to the Penrith Park Zone were set for what was then an extension of residential zoning into an otherwise rural context. Penrith Park is now part of the existing (and committed) environment that makes up the setting of the Peninsula Bay site. The appropriate density and form of development at Peninsula Bay might be different if the Penrith Park land was still farmland.

As discussed in the landscape report, there will be effects on the amenity values of the landowners within the elevated strip on Penrith Park. Currently, their properties adjoin an open paddock; Variation 25 proposes that this will change to residential housing. However, the benefits of providing for Wanaka's growth in an area that can absorb residential development outweigh the costs to the neighbouring properties. It is noted that the properties within Penrith Park will likely face towards the Lake, away from the Peninsula Bay land. Because of its topography, only a small area of the Penrith Park Zone will be adversely affected by the rezoning of Peninsula Bay.

The Panel conducted a visit to the northern area of the site and following this, and the consideration of views from the Lake, agreed with the findings of Mr Espie. Following consideration of the evidence and submissions presented at the hearing with respect to access through the northern area of the Low Density Residential Zone, the Panel is comfortable that access will be achieved through the ODP resource consent process. Additionally, this process provides sufficient certainty that appropriate treatment of the western boundary will be achieved.

It is noted that while the Panel acknowledged that the existing western buffer may have resulted from a need to placate neighbouring landowners, and does not make sense from an urban design perspective, there is no jurisdiction from the submissions to enable a change to its boundaries or configuration.

### **5.3.2 Decision**

That the submissions of **Julie Perry** [120/1] and [120/2], and **RO Boyd** [10/1] and the further submissions of RO Boyd [300/120/1, 300/120/2], Julie Perry [304/10/1] and Dennis Thorn [305/10/1] are accepted in part. That part accepted is the amendment of the zone boundary at the northern end of the Peninsula Bay site. That part rejected is a change from Low Density

Residential Zone to Penrith Park Special Zone, and the extension of the western buffer along the entire western boundary.

That the further submissions of Infinity Investments Limited [301/10/1], [301/120/1] and [301/120/2] are accepted.

#### **5.3.4 Reasons**

Subject to an amendment to the zone boundary (discussed in Section 5.2 above), the northern area within the Peninsula Bay site adjacent to the Penrith Park Zone can absorb development. Following an analysis of the costs and benefits of different zoning provisions, it is considered that Low Density Residential Zoning is the most appropriate in achieving Part II of the RMA, and the settled objectives and policies of Part 4 of the District Plan. The ODP process is considered the most appropriate in achieving effective pedestrian and vehicle access routes, and ensuring high amenity values are achieved.

### **5.4 RURAL RESIDENTIAL ZONING**

Without prejudice to his first submission, **Dennis Thorn** [144/4] submits that the zoning within Peninsula Bay should be amended as shown on the map attached to his submission. This is attached as Appendix 3(a) to this report. This map suggests that a significant area of the site is zoned Rural Residential, with a height limit of 5 metres.

**RO Boyd** [10/1] submits that the northern end of Peninsula Bay opposite Penrith Park should be zoned Rural Residential Zone.

**N Brown** [15/1] submits that Peninsula Bay should be zoned with a combination of Low Density Residential (across the majority of the site) and Rural Residential (across a small area at the sensitive margins to the Low Density Residential zoning).

**T and J Johnston** [74/1] submit that the more sensitive areas of the site should be zoned Rural Residential.

*RO Boyd supports the submission of T and J Johnston [300/74/1]*

*Infinity Investments Limited opposes the submissions of RO Boyd [301/10/1], N Brown [301/15/1], T and J Johnston [301/74/1] and Dennis Thorn [301/144/4].*

*Julie Perry supports the submissions of RO Boyd [304/10/1], T and J Johnston [304/74/1], and Dennis Thorn [304/144/4].*

*Dennis Thorn supports the submissions of RO Boyd [305/10/1] and T and J Johnston [305/74/1]*

#### **5.4.1 Explanation of submissions**

Dennis Thorn submits that the Section 32 report is incorrect in stating that LDR would reflect the character of the adjoining area. He believes that the predominant surrounding area is open space and rural and lake front outstanding natural landscape with the longest boundary being Rural Residential.

RO Boyd submits that the proposed provisions do not adequately protect the values associated with Peninsula Bay.

N Brown believes that a combination of Low Density and Rural Residential zoning is more efficient, effective and appropriate. While Rural Residential zoning may not be efficient in achieving urban consolidation, this is only one of the considerations. Any costs of rezoning a

small area Rural Residential to act as a buffer would be outweighed by positive impacts on landscape and visual amenity values. T and J Johnston believe that Low Density Residential with Rural Residential at the more sensitive outer margins is the most effective means of protecting the landscape, ecological values, retaining the amenity values of the site and surrounds, and enhancing public access through to the Lake.

Infinity Investments Limited believe that Rural Residential zoning is an inefficient use of land, and is inconsistent with the objectives of the Wanaka Structure Plan which seek to prevent urban sprawl.

#### **5.4.2 Consideration**

The option of zoning some of the land Rural Residential is discussed on pages 66-68 of the Section 32 analysis. This identifies that the benefits of a mix of Low Density and Rural Residential zoning relate to reduced effects on the landscape, the provision of a variety of section sizes, consistency with neighbouring zoning on Penrith Park, and reduction of potential effects on roading. The costs relate to reduced density, and therefore the potential for increased pressure for development elsewhere, and the likelihood of sections being less affordable. The report also identifies that Rural Residential zoning would be less effective in achieving Policies 4.2.5(7) Urban Edges and 4.9.3 Urban Consolidation.

As a result of the concerns raised in submissions, the further landscape report commissioned by Mr Ben Espie addressed this issue; in paragraph 56, Mr Espie finds that:

*A number of submitters suggest that Low Density Residential Zoning provides for a pattern of development that will be inappropriately dense. Reducing the density (such as by using Rural Residential zoning) will produce a softer appearance when the site is viewed from the west and south-west. I do not believe that this will fundamentally change the way that observers perceive the site or the way that they appreciate the landscape, when we compare the proposed variation to the suggestions of these submitters. In both scenarios the residential part of Wanaka town will extend north and east to occupy an area of current open space.*

Given the findings of the landscape report, the need to enable efficient land use, and achieve the objectives of the Wanaka Structure Plan and Wanaka 2020, the most appropriate zoning of the areas of the site that can absorb development is Low Density Residential. It is noted that through the Outline Development Master Plan the Council has control over lot configuration and allotment size, and therefore has the ability to ensure high amenity values are achieved.

As part of the Section 32 analysis, an intervisibility<sup>3</sup> study was undertaken, assessing potential effects of development on views, particularly from the north of the site. This found that a small area of the site (hatched red in Map A as notified) had the potential to be visible from the lake. The Panel accept the recommendation in the planner's report that this area becomes part of the Open Space Zone, thus removing any concerns relating to visibility from the Lake, and the need to control location of building platforms and height. It is not considered necessary to restrict height through any other areas of the site. However, at the hearing, Mr Miskell for Infinity Investments identified that there is the potential for visibility from the North, even with the amendment to the Zone boundary. As a result, the Panel determined that the Council's discretion over the potential visibility from the Lake when assessing the ODP should be retained in the Rules.

The Panel viewed the site from the Lake, the surrounding residential development (particularly from Kings Drive and Plantation Road), and from the opposite side of the Lake (Edgewater Resort and Waterfall Creek). It was clear from these site visits that the most important views are those from the Lake. It was agreed that a change in zoning from Low Density Residential to Rural

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<sup>3</sup> Intervisibility means assessing the visibility between given points



Residential would not significantly change the effects on amenity values; given that from these view points the site is viewed in the context of the existing development in the foreground, and is truncated, so that it would appear as a thin horizontal band.

### 5.4.3 Decision

That the submissions of **Dennis Thorn** [144/4], **RO Boyd** [10/1], **N Brown** [15/1] and **T and J Johnston** [74/1], and the further submissions of RO Boyd [300/74/1], Julie Perry [304/10/1], [304/74/1], [304/144/4] and Dennis Thorn [305/10/1],[305/74/1] are rejected, and the further submissions of Infinity Investments Limited [301/10/1], [301/15/1], [301/74/1] [301/144/4] are accepted.

### 5.4.4 Reasons

Zoning those areas of Peninsula Bay that can absorb residential development Low Density Residential is the most appropriate option in terms of achieving the purpose of the RMA, the settled objectives and policies of the District Plan, and the objectives of the Wanaka Structure Plan and Wanaka 2020. The view from the Lake and its western edge is considered the most important in terms of effects; as identified in the landscape report, the benefits of changing from Low Density Residential to Rural Residential would be less than the costs imposed in terms of inefficiency, expense, and reduced capacity.

## 5.5 SPECIFIC RULES (SUBDIVISION LOT SIZE, BUILDING COVERAGE ETC)

**J and N Huddleston** [66/1], [66/2], [66/3] and [66/4] submit that the rezoning is supported, but that additional controls should be inserted.

**Steve Humpherson** [69/2] submits that covenants should be implemented on the northern area separated by the green belt, and larger lot sizes should be imposed of around 2000m<sup>2</sup>.

**RO Boyd** [10/2] submits that Variation 25 should be amended by providing specific policies and controls in the District Plan or covenants on the land to control the location, height, and appearance of buildings in the north-western corner (rather than relying on Council to exercise discretion)

**Julie Perry** [120/3] submits that lot sizes bordering the reserves should be a minimum of 4000m<sup>2</sup> as required in the bordering Penrith Park and Lakeridge subdivisions.

*Infinity Investments Limited opposes in part the submissions of J and N Huddleston [301/66/1], [301/66/2], [301/66/3] and [301/66/4], and opposes the submissions of Steve Humpherson [301/69/2], RO Boyd [301/10/2] and Julie Perry [301/120/3]*

*Julie Perry [304/10/2] supports the submission of RO Boyd.*

*RO Boyd [300/120/3] and Dennis Thorn [305/120/3] support the submission of Julie Perry.*

### 5.5.1 Explanation of Submissions

J and N Huddleston submit that Peninsula Bay should be rezoned Low Density, subject to the following:

- (a) strict controls on section sizes
- (b) requiring that there is only one building allowed per section with maximum ground coverage
- (c) requiring larger section sizes at the outskirts of the development

(d) ensuring that sections can not be re-subdivided

They believe that measures must be taken to ensure the site does not get over developed. Strict controls on section sizes and building coverage need to be implemented to ensure the site does not become a mass of roof tops. Requiring larger lot sizes at the edges of the development will enable the site to blend in with the landscape at its boundaries.

RO Boyd submits that Council discretion on location, height, and visibility of dwellings as proposed for the northwestern corner provides insufficient certainty that environmental values will be protected.

Julie Perry submits that increased lot sizes would provide an effective buffer to neighbouring zones. Infinity believe that increasing lot sizes is inconsistent with the Wanaka Structure Plan, particularly the objective of avoiding urban sprawl.

Infinity Investments Limited identify that the Variation includes a mechanism for ensuring an appropriate mix of densities by requiring the submission of a master plan before any development on the site proceeds.

### **5.5.2 Consideration**

Infinity Investments Limited are correct in identifying that the Variation includes a rule requiring that prior to any development occurring on site, an Outline Development Master Plan (ODP) is approved by the Council. This enables the Council to consider, as a restricted discretionary activity, matters including the layout and size of allotments. It is believed that the concerns of the submitters can be resolved through this consent process.

In response to the submissions of UCESI and Dennis Thorn, Section 5.2 of this decision finds that the northern boundary of the Low Density Residential Zone should be shifted south, so that the area that could potentially be seen from the Lake and all of the areas of Kanuka are incorporated within the Open Space Zone. It is noted that through the hearing it was identified that there was potential for a small area of development to be visible from the north of the Lake; as a result, the Panel identified this potential effect could be resolved through retaining control over visibility in the ODP process (as discussed in Section 5.4 above). In addition, in response to other submissions, an additional method will be included in the Plan that identifies that the Master Plan will be reviewed by the Council's Urban Design Panel.

The concerns raised by Julie Perry with respect to providing a buffer between Peninsula Bay and Penrith Park are dealt with in section 5.3 of this report.

Through the hearing, it was identified that the Plan currently enables the re-subdivision of lots if they are greater than 900m<sup>2</sup> and contain two dwellings. This is enabled through the following provisions:

#### ***Rule 7.5.5.2 Zone Standards- Residential Activities and Visitor Accommodation in the High Density Residential Zone***

*(iii) Site Density*

*In the Low Density Residential Zone, the minimum net area on any site shall be 450m<sup>2</sup> for each residential unit contained within the site, except where:*

- (a) (i) a site is shown as being located in the Medium Density Residential Sub-Zone; and*
- (ii) the site was contained in a separate certificate as at 10 October 1995; and*
- (iii) no residential unit has been built on the site; and*
- (iv) the site has an area between 650m<sup>2</sup> and 900m<sup>2</sup>*

*then two residential units may be erected on the site.*

**Rule 15.2.6.3 Zone Subdivision Standards- Lot sizes and dimensions**

(i) Lot sizes

(....)

*No minimum allotment size shall apply in the Low and High Density Residential Zones where each allotment to be created, and the original allotment, all contain at least one residential unit.*

These provisions mean that the density within Peninsula Bay could be double that which has been assessed in terms of effects on roading and services. This could occur through the first subdivision creating lots of 900m<sup>2</sup> or more in size. The purchasers of those lots could then build two dwellings (given that Rule 7.5.5.2(iii) requires that the minimum net area for each residential unit must be 450m<sup>2</sup>), and then subdivide; thus doubling the density.

Because the effects of the Variation have been assessed based on a potential of around 400 residential units, a potential increase of that amount is not appropriate; traffic and servicing assessments would have to be recalculated based on the true potential density. Consequently, the ability to increase density and subdivide provided by Parts 7 and 15 of the Plan should not apply to the Peninsula Bay Low Density Residential Zone.

Because the analysis of the effects of the Variation have been based on the potential number of dwellings using a minimum lot size of 700m<sup>2</sup>, this should be reflected in the Plan, so that the minimum net area for each dwelling is 700m<sup>2</sup>, rather than 450m<sup>2</sup>, as is provided by Rule 7.5.5.2.

Amending the subdivision rule is not considered appropriate, given that it is the effect of two dwellings, not the effect of the subdivision that increases density. For example, if two dwellings are erected on a 900m<sup>2</sup> lot and are not subdivided, the effects on the servicing and roading because of this increased density occurs aside from the fact that they have not been subdivided.

**5.5.3 Decision**

That the submissions of **J and N Huddleston** [66/1], [66/2], [66/3] and [66/4] are accepted in part. That part accepted is the exclusion of the Peninsula Bay Low Density Residential Zone from the provisions to re-subdivide. Those parts not accepted are the requests for other additional restrictions on development.

That the submissions of **Steve Humpherson** [69/2] and **Julie Perry** [120/3] and the further submissions of RO Boyd [300/120/3] and Dennis Thorn [305/120/3] are rejected, and the further submissions of Infinity Investments Limited [301/66/1], [301/66/2], [301/66/3], [301/66/4], [301/69/2] and [301/120/3] are accepted.

That the submission of **RO Boyd** [10/2] and the further submissions of Julie Perry [304/10/2] and Infinity Investments Limited [301/10/2] are accepted in part. That part accepted is the recommendation to move the zone boundary south. That part not accepted is to retain the provisions for the Outline Development Master Plan, and rely on this process to ensure that adverse effects are avoided, remedied or mitigated.

And that the following amendments are made to the Plan:

### **Rule 7.5.5.2 Zone Standards- Residential Activities and Visitor Accommodation in the High Density Residential Zone**

#### *(iv) Site Density*

*In the Low Density Residential Zone, the minimum net area on any site shall be 450m<sup>2</sup> for each residential unit contained within the site, except where:*

- (a) (i) a site is shown as being located in the Medium Density Residential Sub-Zone; and*
- (ii) the site was contained in a separate certificate as at 10 October 1995; and*
- (iii) no residential unit has been built on the site; and*
- (iv) the site has an area between 650m<sup>2</sup> and 900m<sup>2</sup>*

*then two residential units may be erected on the site.*

*(c) In the Peninsula Bay Low Density Residential Zone, the minimum net area on any site shall be 700m<sup>2</sup> for each residential unit contained within the site.*

### **5.5.4 Reasons**

The majority of the concerns raised by the submitters can be addressed through the requirement for consent for an ODP. It is recommended in Section 5.2 of this report that the northern boundary of the Low Density Residential Zone is shifted to the south; it is anticipated that this will resolve some of the submitter's concerns.

The Section 32 analysis of the costs and benefits of the Variation has been based on an assumption that the minimum lot size is 700m<sup>2</sup>, and that there will be no re-subdivision, or increase in density beyond approximately 400 residential units. The current provisions enable a doubling of that density, which is considered inappropriate. Therefore, a new provision will be inserted ensuring that the minimum net area for each dwelling is 700m<sup>2</sup>.

## **5.6 OUTLINE DEVELOPMENT PLAN**

**N Brown** [15/2] submits that the process for the Outline Development Plan (ODP) should incorporate the opportunity for public comment and submissions. **Kati Huirapa Runaka ki Puketeraki** [79/1] submits that the provisions for the ODP should be amended so that discretion is reserved over matters of concern to Kai Tahu. **John May** [98/1] questions the concept of the ODP. **Dennis Thorn** [144/6] submits that the application for the ODP should be publicly notified. **Paula Costello** [26/1] submits that the non-notification provisions for the ODP should be amended as they are currently incorrect by listing the ODP as a site standard.

**RO Boyd** [300/144/6] supports the submission of **Dennis Thorn**.

**Infinity Investments Limited** [301/79/1] supports in part the submission of **Kati Huirapa Runaka ki Puketeraki**.

**Infinity Investments Limited** opposes the submissions of **Dennis Thorn** [301/144/6], **N Brown** [301/15/2] and **John May** [301/98/1a]

**Julie Perry** supports the submissions of **John May** [304/98/1] and **Dennis Thorn** [304/144/6].

### **5.6.1 Explanation of Submissions**

**N Brown** submits that while the methodology for the proposed ODP is argued in the section 32, it is not evaluated in comparison with an option that provides for public consultation and feedback.

The additional cost of public input would be outweighed by the benefits from public feedback and consultation, increasing effectiveness and appropriateness of this method.

Kati Huirapa Runaka ki Puketeraki (KHRKP) support the ODP. However, Kai Tahu identified a number of concerns in comments to the discussion document. While KHRKP may be consulted with respect to subdivision consents, it is important to ensure that they are also consulted with respect to consents for the ODP.

John May is concerned that because of the approach taken with the ODP, the future use and development of the land is not known. Infinity believe that the cross boundary issues with Kirimoko are sufficiently addressed in the Wanaka Structure Plan, and that the master plan (Outline Development Plan) process will ensure that roading layout and walkway linkages will be addressed.

Dennis Thorn believes that the concept of a non-notified consent process for the ODP is repugnant to public participation, and is a blatant attempt to exclude public from subdivision proposals. He believes that Council's activities should be transparent, and that notification is a robust, open process.

In response to the submissions of N Brown and Dennis Thorn, Infinity believe that the Council is competent to ensure that ultimate development is planned in an efficient and logical manner, without the need for additional public input.

### **5.6.2 Consideration**

The planner's report provided a detailed analysis of the costs and benefits of publicly notifying the ODP. Following this analysis, it recommended that notification should be required unless the application for the ODP provided details of consultation with affected parties. In addition, it recommended that the ODP is reviewed by the Urban Design Panel.

At the hearing, such an approach was opposed by Infinity Investments. John Kyle, presenting resource management evidence for Infinity, suggested that instead of using the notification process, a public open day or workshop could be held. This would ensure that the public and affected landowners could have input into the process, but avoided the potential for litigation. The other submitters at the hearing agreed with this suggestion; rather than requesting the formal notification process, the submitters wished to ensure an open and public process.

Following further consideration of the submissions and statements made at the hearing, the Panel has identified that the key issue is to ensure there will be public involvement in the ODP process, so that interested people can have their say, rather than ensuring there is the ability to appeal the consent application.

The importance of ensuring that a review will be undertaken by the Urban Design Panel was also agreed. The Panel identified an issue with the current wording of Rule 7.5.3.3 (vi) in that it appears to apply only to the Low Density Residential zoned land. This needs to be corrected so that it is clear that the ODP process applies to both the Low Density Residential and the Open Space Zones within Peninsula Bay. This ensures that through the ODP process, people are not restricted to commenting on only that land that is zoned Low Density Residential.

### **5.6.3 Decision**

That the submissions of **N Brown** [15/2], **Kati Huirapa Runaka ki Puketeraki** [79/1], **John May** [98/1] and **Dennis Thorn** [144/6] and the further submissions of RO Boyd [300/144/6], Infinity

Investments Limited [301/79/1] [301/144/6] [301/15/2] and [301/98/1] and Julie Perry [304/144/6] [304/98/1] are accepted in part. That part accepted is the recommended amendment to the rules to ensure that a public open day is held prior to lodging the resource consent for the ODP. That part rejected is the retention of the non-notification provision.

That the submission of **Paula Costello** [26/1] is accepted.

And that the following amendments are made to Section 7.

Insert the following method under 7.3.3 Implementation Methods

**(ii) Other methods**

(a) Review of the Outline Development Plan for Peninsula Bay by the Urban Design Panel

(b) A public open day to review the Outline Development Plan for Peninsula Bay

7.5.4 Non-notification of applications

(ii) All applications for the exercise of the Council's discretion in respect of the following Restricted Discretionary Activities:

(a) Outline Development Master Plan for Peninsula Bay

Amend Rule 7.5.3.3 (vi) as follows:

**vi Outline development Master Plan- Peninsula Bay**

Within the Low Density Residential Zone at Peninsula Bay, the Outline Development Plan of the Low Density Residential Zone and the adjacent open space zone lodged with the Council pursuant to Rule 7.5.5.2(xiii), in respect of:

- Roading pattern, including access to and car parking for the use of the adjacent open space zone;
- Indicative subdivision design and configuration, including allotment size;
- Proposed landscaping within any road reserve;
- Pedestrian linkages through the subdivision, and their relationship to the adjacent open space zone, the margin of Lake Wanaka and adjacent residential land;
- Location of easements for public access purposes throughout the Open Space Zone, and their relationship to the pedestrian linkages and roading access within the Low Density Residential Zone.
- The location, height and visibility of future dwellings when viewed from the lake to the north of the site, particularly within the north-western corner of the zone ~~(the area shaded xx on planning map yy).~~

An application for a resource consent for the Outline Development Plan must be accompanied by:

- A statement from the Wanaka Urban Design Panel evaluating the application;
- A statement recording the outcomes of a public open day, including notification, attendance, comments made and ways in which these have been incorporated into the Outline Development Master Plan.

#### 5.6.4 Reasons:

While the Peninsula Bay Variation has been through an extensive public consultation process, it is recognised that the public should have the opportunity to have input into the Outline Development Master Plan process, which will provide a much greater level of detail. This includes the identification of pedestrian and roading linkages through both the Open Space and Low Density Residential Zones. Ensuring that a public open day will occur, in addition to the review by the Urban Design Panel, will enable people to provide input into key issues, which could not be submitted on through the Variation process.

### 5.7 ROADING AND ACCESS

**RO Boyd** [10/3] submits that the Variation should be amended by ensuring there are at least two road access routes into the separate areas of residential development. **John May** [98/1] submits that the roading layout is unknown, and suggests that the roading layout and walking linkages are included within the Variation provisions. **Julie Perry** [120/4] submits that the roads within Penrith Park should not be extended to provide for the additional traffic demands of Peninsula Bay. **Dennis Thorn** [144/8] submits that roads should be a prohibited activity through the Open Space Zone. **CD Scurr** [131/2] and **EV Scurr**[132/2] submit that an additional rule should be inserted allowing for access linkage to Hunter Crescent and between the two low density residential zones.

*RO Boyd supports the submissions of Julie Perry [300/120/4], John May [300/98/1] and Dennis Thorn [300/144/8].*

*Infinity Investments Limited opposes the submissions of RO Boyd [301/10/3] and Julie Perry [301/120/4].*

*Julie Perry supports the submissions of John May [304/98/1], RO Boyd [304/10/3] and Dennis Thorn [304/144/8].*

#### 5.7.1 Explanation of Submissions

RO Boyd believes that the most feasible option is to provide road access from both Rata Street and Hunter Crescent, and to the northern part of the site through the Central Melt Channel and Minaret Ridge.

John May submits that the cross boundary issues with the Kirimoko Block have not been addressed through the Variation.

Julie Perry believes that the roads within Penrith Park have been designed only to support the existing subdivision, and therefore should not be used to accommodate the increased traffic from Peninsula Bay.

Dennis Thorn believes that there is no point having an open space zone that a developer can turn into roading.

Infinity Investments Limited submit that it may be appropriate to link Peninsula Bay with roads within adjacent residential developments, including Penrith Park, for traffic management and efficiency reasons. The requirement for a master plan will ensure that the most appropriate road layout linkages are addressed.

#### 5.7.2 Consideration

As identified in the planner's report, the exact roading layout will be determined through the ODP process. Prior to the notification of the Variation, traffic assessments were undertaken to identify key linkages and roading layouts. These found that for traffic safety and management, it is necessary to have road linkages through the surrounding residential areas into Peninsula Bay, including the linkage through Penrith Park. The traffic assessments have also determined that for efficiency and effectiveness, a road linkage should be provided through the Central Melt Channel.

Page 9 of the landscape report addresses the issue of roading within the Open Space Zone, and identifies that any roading within the northern end of the Open Space Zone would be inappropriate, but that a road through the Central Melt Channel would be acceptable. However, it is identified that the amenity of this part of the open space would be lost if a road were to follow its length in an east to west direction.

As identified in the landscape report, roading within the Open Space Zone is a non-complying activity. This makes no differentiation between the possibility of roading through the Central Melt Channel to connect the two areas of Low Density Residential development, and roading within the more visually and ecologically sensitive areas at the northern end of the site. Given the importance of ensuring there is effective traffic linkage between the residential areas, and the importance of protecting the landscape and ecological values, the Panel believes that these provisions should be amended.

The planner's report recommended that the rules be amended so that one road access between the Low Density Residential Zones would be a discretionary activity, instead of non-complying. The Panel agrees with this approach, however, because of the nature of such an application, decided that it would be appropriate as a restricted discretionary activity. In his written submissions at the hearing, John Kyle recommended that the matters over which discretion should be reserved should include:

- Effects on landscape and visual amenity
- Extent and handling of earthworks
- Extent of vegetation removal

### 5.7.3 Decision

That the submission of **John May** [98/1] and the further submissions of RO Boyd [300/98/1] is accepted in part. That part accepted is the decision in Section 4.7.3 that inserts a new provision for a public open day prior to lodging resource consent. That part not accepted is the inclusion of the detailed information on road accesses, pedestrian linkages and subdivision layout in the Variation.

That the submissions of **CD Scurr** [131/2], **EV Scurr**[132/2] and **RO Boyd** [10/3] and the further submission of Julie Perry [304/10/3] are accepted, and the further submission of Infinity Investments Limited [301/10/3] is rejected.

That the submission of **Dennis Thorn** [144/8] and the further submission of RO Boyd [300/144/8] are accepted in part. That part accepted is the addition of a prohibited activity rule for roading within the northern open space; that part not accepted is the inclusion of a restricted discretionary activity rule for roading within the Central Melt Channel.

That the submission of **Julie Perry** [120/4] and the further submission of RO Boyd [300/120/4] is rejected, and the further submission of Infinity Investments Limited [301/120/4] is accepted.

That the following amendments are made:

#### 7.5.4 Non-notification of applications



(ii) All applications for the exercise of the Council's discretion in respect of the following Restricted Discretionary Activities:

(a) Outline Development Master Plan for Peninsula Bay

And the following amendments made to the provisions for the Open Space Zone.

Insert the following additional restricted discretionary activity:

**v Vehicle Access**

The provision of one vehicle access road through the Central Melt Channel connecting the two areas of Low Density Residential Zone within the Peninsula Bay land, where this road has been identified as necessary through the Outline Development Master Plan approved pursuant to Rule 7.5.3.3(vi) in respect of the following:

- Form and location
- Effects on landscape and visual amenity
- Extent and management of earthworks
- Extent of vegetation removal

Delete non-complying activity rule 4.6 (ii) that read:

~~Vehicle access not associated with car parking facilities as provided for under Rule 4.4(ii)~~

Insert the following prohibited activity.

Any vehicle access except:

- (a) one road through the Central Melt Channel approved pursuant to Rule 20.2.2.3(v), and
- (b) vehicle access associated with car parking facilities as provided for under rule 20.2.2.3(ii).

**5.7.4 Reasons**

The traffic analysis has shown that there is a need to provide for one road access through the Central Melt Channel linking the two areas of residential land. The landscape report has identified that such a road, if located correctly, will not cause significant adverse effects on landscape values. Because of the requirements for an ODP, and the nature of this activity, it is appropriate that the Council's discretion is limited to the matters listed.

**5.8 OPEN SPACE ZONE SHOULD BE RESERVE**

**Big River [8/1], Black Bag Limited [9/1], Stephen Collie [23/1], Colquin Holdings Limited [23/1] and LE and JM Ferguson [36/1], Neville Frost [41/1] Steve Humpherson [69/1], Stu and Jan McIvor [106/1], Colin Moorfoot [109/1], CD Scurr [131/1], EV Scurr [132/1], Darren Simmonds [135/1], David Smallbone [136/1], Melonie Telk [141/1], Jayne Wilson [160/1], Matthew Wilson [161/1], and Ray Mulqueen [110/1]** submit in support of the Variation, one of the reasons being that it will allow retain, and possibly improve public access, including existing walking and cycling tracks through to the Lake.

**Lake Wanaka Cycling [85/1, 85/2]** submit in support of the development of public access through tracks and trails, public ownership of recreation land, and submit that open space and recreation areas be gifted to Wanaka Trails Trust, and the existing mountain bike trail on the northern boundary be upgraded at the developers cost, but designed by Lake Wanaka cycling for the exclusive use of mountain bikers, all other tracks and trails to be for multi user groups.

**Chris Norman** [112/1] submits in support of the Variation; stating that support is based on several assumptions, including: (1) that the proposed eastern open space will become an asset for the wider community; (2) all of the open space will be of similar quality offered in October 2003.

**Kati Huirapa Runaka ki Puketeraki (KHRKP)** [79/2] request that the Outstanding Natural Landscape be rezoned as reserve, and that KHRKP be involved in a kaitiaki role in its future administration.

**Dennis Thorn** [144/5] submits that the Outstanding Natural Landscape on the northern side must be taken as Council gazetted reserve.

**Upper Clutha Environmental Society (UCESI)** [147/2] and [147/3] submits that all the land to the north of the UCES ONL line and land to the east of the UCESI reserve line (as illustrated in attachment to submission) should become reserve, with an underlying Rural General Zoning.

*RO Boyd supports the submission of Kati Huirapa Runaka ki Puketeraki (KHRKP) [300/79/2], Dennis Thorn [300/144/5], Upper Clutha Environmental Society [300/147/2] and [300/147/3].*

*Infinity Investments Limited opposes in part the submission of Upper Clutha Environmental Society [301/147/2] and [301/147/3] and support in part the submission of Kati Huirapa Runaka ki Puketeraki (KHRKP) [301/79/2]*

*Geoff Perry supports the submission of the Wanaka Cycling Club [303/85/2].*

*Julie Perry supports the submissions of Upper Clutha Environmental Society [304/147/2], [304/147/3] and Dennis Thorn [304/144/5]*

*Dennis Thorn opposes in part the submission of Kati Huirapa Runaka ki Puketeraki (KHRKP) [305/79/2], and supports the submission of Upper Clutha Environmental Society [305/147/2], [305/147/3].*

### **5.8.1 Explanation of Submissions**

KHRKP believe that rezoning the ONL open space does not afford it the long term protection required for such land. KHRKP question the landowners' long term commitment to protecting the land in perpetuity. Dennis Thorn submits that apart from a Memorandum of Encumbrance and Easement in Gross registered against the title, a QLDC gazetted reserve is the best way of protecting this area. A private plan change could be used to change the Open Space Zone, therefore questioning its ability to provide protection in perpetuity. UCESI submit that vesting the northern land as reserve would protect its visual amenity, protect areas of kanuka and allow some expansion of kanuka into the gaps, and create a more usefully shaped and sized reserve area for the public.

RO Boyd submits that further consideration should be given to the desirability of zoning the open spaces and ONL as public reserve to ensure long term protection. Julie Perry submits that reserve areas should be extended to be more usefully shaped and ownership structured so that public access is provided in perpetuity.

Infinity submit that the Council will have to decide whether it acquires the areas subject to Open Space Zone as reserve. Infinity suggests that if it does, it would be appropriate to involve KHRKP in a kaitiaki role.

### **5.8.2 Consideration**

Throughout the hearing it was clear that all submitters agree that the Open Space Zone should be vested as reserve. The Panel strongly agrees that this should occur. However, determining whether the sensitive land within Peninsula Bay is vested as reserve is subject to a process outside the Variation. Consequently, while these submissions are acknowledged and supported in that such a management regime would be the most effective in achieving the purpose of the Act, vesting of land can not be achieved through the Variation process. This decision therefore focuses on the amendments that can be made to the Variation provisions in order to ensure the outcomes sought by the submitters can as far as possible be achieved through the Variation.

In terms of ensuring that open space and natural character is maintained, the provisions for the Open Space Zone have enough strength. For instance, activities such as residential units and commercial buildings are a prohibited activity. However, it is believed that improvements can be made for ensuring public access, and managing potential roading.

A significant amount of support for the Variation is predicated on the assumption that it will ensure public access through the site is maintained and improved. While this is currently assumed within the Variation documents, the rules do not ensure that public access will result from the zone change.

Currently, the Plan provisions require that before any subdivision or development occurs, a resource consent is approved for an Outline Development Plan (ODP). When assessing the ODP, discretion is reserved over pedestrian access to the Open Space Zone, however, no consideration is given to public access within it. Therefore, the Panel finds that Rule 7.5.3.3(vi) Outline Development Plan should be amended to enable consideration of public access throughout the Open Space Zone.

The Panel agree with the recommendations in the planner's report that an additional non-complying rule should be inserted requiring that prior to any subdivision or development within the Low Density Zone on the Peninsula Bay land, a subdivision consent is lodged and approved that establishes public access easements and the Open Space Zone (as a separate lot). This prior consent would be a controlled subdivision activity establishing both the Open Space Zone and the easements. At the hearing, Mr Kyle suggested that this approach is unnecessary, and results in the developer having to apply for two subdivision consents. While this is acknowledged, it is believed that the developer could apply for the first subdivision consent at the same time as the ODP. Then, once these two consents have been approved, a second subdivision consent would be lodged for the subdivision of the Low Density Residential Zone. This approach is beneficial if the land is to be vested as reserve; given that the boundaries of the Open Space Zone would be fixed prior to any other subdivision or development occurring. It also means that it is less likely for individual lots to extend into the Open Space Zone, which creates problems in terms of future management.

The planner's report provided detail of the amendments required to the Plan; and these are accepted.

The submissions of the Wanaka cycling club and Kati Huirapa Runaka ki Puketeraki relate to the future management of the reserve/Open Space Zone. Following the decision made in Section 5.6 of this report, a requirement that a public open day will be held to ensure that people can have their say in terms of location and management of access has been inserted. These submitters will have the opportunity to be a part of that process. However, the issues of whether the Zone will be vested as reserve and its future management are outside the scope of this Variation. As discussed above, the Panel agrees that the Council should accept the land as reserve.

Infinity Investments Ltd's representatives at the hearing indicated that the Company intends to offer all the Open Space Zone to the Council as reserve, without an expectation that this would create reserve contribution credits. However Infinity's position is that it opposes a rule that would require an easement in gross over the land in the event of it remaining in private ownership. The

panel accepts it would be unreasonable to effectively take these substantial areas for the public while leaving the burden of maintenance entirely with the future residents of Peninsula Bay. Some compromise may be appropriate given that the future residents of properties overlooking the Open Space Zone stand to gain more from this open space than the general public. It is anticipated that there will be some negotiation over which areas will be accepted by the Council as reserve prior to the Outline Development Plan being presented.

Mr Thorn suggests that the Open Space Zone could be changed through the private plan change process in the future. It is recognised that zoning provides less guarantee than vesting as reserve. However, given the strong policy provisions of Part 4 of the Plan relating to ONL, and the objectives and policies of the Open Space Zone a successful plan change to enable development is considered highly unlikely. It is anticipated that once the Open Space zoning has been confirmed and subdivision consents lodged, the vesting of the land as reserve will be addressed by the Council.

In response to the Upper Clutha Environmental Society's request that the underlying zone should be Rural General, it is believed that the Open Space Zone provisions as notified provide far more protection for the landscape and ecological values of the site. Importantly, the District Wide provisions within Part 4 of the Plan still apply, therefore providing recognition and provision for the landscape values of the more sensitive areas within the Open Space Zone.

### 5.8.3 Decision

That the submissions of **Big River** [8/1], **Black Bag Limited** [9/1], **Stephen Collie** [23/1], **Colquin Holdings Limited** [23/1], **LE and JM Ferguson** [36/1], **Neville Frost** [41/1], **Steve Humpherson** [69/1] **Stu and Jan McIvor** [106/1], **Colin Moorfoot** [109/1], **Ray Mulqueen** [110/1], **Chris Norman** [112/1], **CD Scurr** [131/1], **EV Scurr** [132/1], **Darren Simmonds** [135/1], **David Smallbone** [136/1], **Melonie Telk** [141/1], **Jayne Wilson** [160/1] and **Matthew Wilson** [161/1] are accepted, and amendments made to the Plan provisions to ensure that public access is established through the Open Space Zone.

That the submission of **Lake Wanaka Cycling** [85/1, 85/2] and the further submission of Geoff Perry [303/85/2] is accepted in part. That part accepted relates to the provision of public access. That part rejected relates to ownership and management of the trails and tracks.

That the submission of **Kati Huirapa Runaka ki Puketeraki (KHRKP)** [79/2] and the further submissions of Dennis Thorn [305/79/2], RO Boyd [300/79/2] and Infinity Investments Limited [301/79/2] are accepted in part. The part accepted is that at least some of the land zoned Open Space is likely to be vested as reserve through the subdivision consent process. That part rejected is the request that all of the Open Space Zone is vested as reserve, and consequentially that KHRKP is involved in a kaitiaki role.

That the submission of **Dennis Thorn** [144/5] and the further submissions of RO Boyd [300/144/5] and Julie Perry [304/144/5] are accepted in part. That part accepted is the amendments to ensure that prior to any development occurring public access easements are established. That part rejected is the request that the northern end of the site that has been identified as ONL is vested as reserve.

That the submissions of the **Upper Clutha Environmental Society** [147/2] and [147/3] and the further submissions of Dennis Thorn [305/147/2], [305/147/3], RO Boyd [300/147/2], [300/147/3] and Julie Perry [300/147/2], [304/147/3], are rejected, and the further submissions of Infinity Investments Limited [301/147/2] and [301/147/3] are accepted in part.

Accordingly, that the following amendments are made to the Variation as notified.

### Part 7:

Amend new rule 7.5.3.3(vi) Outline Development Plan as follows:

**vi Outline development Master Plan- Peninsula Bay**

Within the Low Density Residential Zone at Peninsula Bay, the Outline Development Plan of the Low Density Residential Zone and the adjacent Open Space Zone lodged with the Council pursuant to Rule 7.5.5.2(xiii), in respect of:

- Roading pattern, including access to and car parking for the use of the adjacent Open Space Zone;
- Indicative subdivision design and configuration, including allotment size;
- Proposed landscaping within any road reserve;
- Pedestrian linkages through the subdivision, and their relationship to the adjacent open space zone, the margin of Lake Wanaka and adjacent residential land;
- Location of easements for public access purposes throughout the Open Space Zone, and their relationship to the pedestrian linkages and roading access within the Low Density Residential Zone.
- The location, height and visibility of future dwellings when viewed from the lake to the north of the site, particularly within the north-western corner of the zone ~~(the area shaded xx on planning map yy).~~

An application for a resource consent for the Outline Development Plan must be accompanied by:

- A statement from the Wanaka Urban Design Panel evaluating the application;
- A statement recording the outcomes of a public open day, including notification, attendance, comments made and ways in which these have been incorporated into the Outline Development Master Plan.

**Part 15**

Insert new Issue statement:

**15.1.2 (vii) Public access – Peninsula Bay Wanaka**

There is a clear community desire to establish and maintain public access throughout the Open Space Zone within Peninsula Bay, providing linkages throughout the site, and connections to the Lake. Where land is not vested in the Council as a reserve, public access needs to be established through the creation of easements at the time of subdivision. To ensure that the community's desires are met, it is important that the public access easements are established prior to any other development occurring within the site.

**15.1.3 Objective 6**

To ensure effective public access is provided throughout the Peninsula Bay land.

**Policies**

- 6.1 To ensure that before any subdivision or development occurs within the Peninsula Bay Low Density Residential Zone, a subdivision consent has been approved confirming easements for the purposes of public access throughout the Open Space Zone.

- 6.2 Within the Peninsula Bay site, to ensure that public access is established through the vesting of reserves and establishment of easements prior to any further subdivision.
- 6.3 To ensure that easements for the purposes of public access are of an appropriate size, location and length to provide a high quality recreation resource, with excellent linkages, and opportunities for different community groups.

In addition to the above, refer: Open Space Zone Objective 2, Part 20.

### **Explanation and principal reasons for adoption**

It is important that amenity values are maintained, or where possible, enhanced, through the provision of public access. The use of easements for the purposes of ensuring public access enables the bulk of the land to remain in private ownership, with the cost associated with maintenance of that land borne by the landowner/s.

The policies establish that the public access easements must be created prior to any other subdivision or development within the Peninsula Bay Low Density Residential Zone.

Amend new rule 15.2.3.2(ii) (inserted as a result of Variation 25) to read:

(ii) the subdivision of land for the purposes of creating an Open Space Zone and public access easements throughout that zone.

Insert new rule 15.2.3.4 (v) Non Complying Activities:

*Peninsula Bay -*

Any subdivision within the Low Density Residential Zone of Peninsula Bay prior to the establishment of the Open Space Zone and public access easements throughout the Open Space Zone pursuant to a subdivision approved under Rule 15.2.3.2(ii).

### **15.2.18 Easements**

#### **15.2.18.2 Assessment Matters for Resource Consents**

Add the following additional assessment matters:

The need for easements:

(i) For the provision of public access throughout the Open Space Zone within Peninsula Bay.

### **5.8.4 Reasons**

While the Panel believes that the land should be vested as reserve, this can not be achieved through the Variation process. Therefore, the above amendments ensure the provision of public access, and public involvement through strengthening the Plan provisions.

### **5.9 THE ENTIRE PENINSULA BAY SITE SHOULD BE VESTED AS RESERVE**

**Gary and Heather Crombie** [28/2] submit that the entire Peninsula Bay site should be vested as reserve.

**Infinity Investments Limited** oppose the submission of Gary and Heather Crombie [301/28/2].

**Julie Perry** supports the submission of Gary and Heather Crombie [304/28/2]

### **5.9.1 Explanation of Submissions**

Gary and Heather Crombie submit that the area is of great visual amenity for the town of Wanaka, and has potential for development as open space/gardens. They believe that public gardens coupled with bike tracks and space for future recreational facilities would be an asset that could be developed over time for our future generations. They submit that funds otherwise spent in promoting a plan change and upgrading of roads and other services would be better directed towards the cost of purchasing the land.

### **5.9.2 Consideration**

While this is a Council Variation, the costs associated with its preparation are met by the landowners. This recognises that while there is a community benefit, there is also a private benefit to the landowner. The costs associated with roading and other services that are required to enable the development of such a site are met through development contributions. These are calculated at the time of subdivision, and ensure that the costs of the development are met by the landowner, instead of imposing costs on the ratepayers.

The costs of purchase and maintenance of such land as a reserve would have to be met by ratepayers. Therefore, vesting the whole site as reserve is not economically viable for the community. The Council's Long Term Council Community Plan identifies that the Council owns and maintains 230 hectares of designated reserve areas throughout the District. Adding 75 hectares to that portfolio would increase the costs significantly, and is not considered feasible.

### **5.9.3 Decision**

That the submission of **Gary and Heather Crombie** [28/2] and the further submission of Julie Perry [304/28/2] are rejected, and the further submission of Infinity Investments Limited [301/28/2] is accepted.

### **5.9.4 Reasons**

The Panel supports the vesting of the Open Space Zone as reserve. However, purchasing the whole site as reserve is not economically feasible for the community. It has been identified that there is a need to rezone additional land for residential purposes, and given that this land can be serviced, and can absorb residential development, it is considered necessary to undertake the rezoning in order to achieve the settled objectives and policies of the District Plan, and the purpose of the RMA.

## **5.10 PROVIDE FOR A COMMERCIAL AREA WITHIN PENINSULA BAY**

**Chris Norman** [112/2] submits that the Variation should contain provision for a commercial supply services, such as a corner dairy.

*Infinity Investment Limited oppose the submission of Chris Norman [301/112/2].*

### **5.10.1 Explanation of Submissions**

Chris Norman submits that commercial activities would benefit the local area, and alleviate increased traffic numbers to Wanaka Township. Infinity Investments believe that the area is not large enough to support a viable commercial site and host such activities as a dairy. They submit that sufficient and accessible commercial supply services are provided outside the Peninsula Bay zone.

### 5.10.2 Discussion

In the preparation of this Variation, the Council commissioned a report to provide urban design advice. This responded to the question of whether a local commercial area within the site is appropriate, and if so, its possible location, size and function. This report is attached as Appendix 10 to the Section 32 analysis. It identifies that the Wanaka Structure Plan identified the possibility of a small convenience commercial area serving the northern residential areas of Wanaka, suggesting that this should be located on Anderson Road so as to intercept traffic between Albert Town and Wanaka Town Centre. Locating a commercial area within Peninsula Bay would be inconsistent with the findings of the Wanaka Structure Plan, and would not serve the objectives of such an area; i.e to intercept traffic. The report also finds that the scale of development within Peninsula Bay would be insufficient to support a commercial centre.

It is noted that within Section 7 of the Plan, commercial activities are a discretionary activity. Therefore, if the establishment of a commercial area is seen as viable and beneficial, a resource consent application could be lodged. This would be considered on its merits.

### 5.10.3 Decision

That the submission of **Chris Norman** [112/2] is rejected and the further submission of Infinity Investments Limited [301/28/2] is accepted, and that no changes be made to the Variation as notified.

### 5.10.4 Reasons

A commercial centre within Peninsula Bay would not be viable, given the size and location of the development. The Wanaka Structure Plan determined that an appropriate location for a commercial centre to intercept traffic between Albert Town and Wanaka Town is along Anderson Road.

## 5.11 RESOURCE STUDY FOR WIDER AREA

**Highland Capital Partners Limited** [63/1, 63/2, 63/3 and 63/4] requests that the Council undertake an area wide resource study to provide resource information for the area, a review of existing and potential land uses, an analysis of current planning policies, and guidelines for the ongoing management and development of the area towards Beacon Point and the outlet, with particular regard to landscape and ecological values, public access and recreation and services and infrastructure.

**Infinity Investments Limited** opposes the submissions of **Highland Capital Partners** [301/63/1], [301/63/2], [301/63/3], [301/63/4].

### 5.11.1 Explanation of Submissions

While Highland Capital Partners supports the Variation, it believes that further consideration of the proposal's compatibility with surrounding existing and future land uses in terms of amenity, transport linkages, recreational opportunities and open space should occur. The submitter believes that the Coneburn Area Resource Study undertaken for Jacks Point should be used as a precedent for thorough integrated resource management planning in the District, and is necessary to fulfil the obligations of Part 5 and Section 32 of the Act. The District has a limited supply of land suitable for urban growth, increasing pressure on that limited resource will result in increased land prices. The submitter seeks to provide a more efficient use of a limited resource.

Infinity Investments Limited submit that Wanaka 2020 and the Wanaka Structure Plan documents provide sufficient strategic direction for Wanaka and provide clear determination of the servicing and infrastructural needs for future urban land. The Section 32 analysis is robust in its treatment



of the relevant issues and alternatives, and justifiably concludes that the zoning that would be brought about by confirmation of the Variation is the most appropriate for the site.

### **5.11.2 Consideration**

A significant amount of work has been 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, servicing issues, and a staging approach to development. 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 of the Wanaka Structure Plan. This level of analysis has occurred for Peninsula Bay; in particular, recreational and transport linkages through the Peninsula Bay site have been identified through consideration of the future development and linkages through the Kirimoko block, and the urban design report commissioned identifies Peninsula Bay's role from an urban design perspective. Additionally, the sensitive areas of the site have been considered in the context of their surrounds. For example, development has been set back considerably from the eastern boundary in order to respect the Beacon Point Ridge.

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. It is believed that the analysis undertaken is robust and that further studies are not necessary for the purposes of completing this Variation.

### **5.11.3 Decision**

That the submissions of Highland Capital Partners [63/1, 63/2, 63/3 and 63/4] are rejected, and the further submissions of Infinity Investments Limited [301/63/1], [301/63/2], [301/63/3], [301/63/4] are accepted.

### **5.11.4 Reasons**

Given the analyses undertaken through the Wanaka Structure Plan process and the Section 32 report, and the assessment of the site and its context, the resource study as requested by the submitter is not considered necessary.

## **5.12 HIGH CLASS SOILS**

The **Otago Regional Council** (ORC) [116/1] submits that recognition should be made that the subject site contains high class soils as identified by the ORC, and that alternative locations should be considered.

*Infinity Investments Limited [301/116/1] opposes the submission of the ORC.*

### **5.12.1 Explanation of the Submission**

The ORC submit that the land subject to rezoning contains high class soils. These cover the majority of the subject site, and are a finite resource that requires careful management. This is reflected in the Otago Regional Policy Statement, particularly Policy 5.5.2. Infinity Investments Limited submit that the section 32 analysis concluded that the site did not contain high class soils, and the productive capacity of the site for agricultural or pastoral use is confirmed as being of little value.

### **5.12.2 Consideration**

In the preparation of the Variation, a property report was commissioned from Moore and Percy Limited (see Appendix 12, Section 32 report).

When considering land use capability, the report finds that the property had been found to be very difficult to farm due to the proximity to residential development, light droughty soil types, lack of a reticulated stock water system and the very low carrying capacity due to the runout condition of pastures and native grazing available.

The report finds that the soil type is Class IV, land suitable for extensive grazing, and the cost of improving the site to increase capacity is such that it would be uneconomic. It is noted that at the hearing additional information from Moore and Percy was provided to the Panel by Infinity Investments. These confirmed the findings of the original report by Moore and Percy, providing more specific detail of the soil types.

### **5.12.3 Decision**

That the submission of **ORC** [116/1] is rejected, and the further submission of Infinity Investments Limited [301/116/1] is accepted.

### **5.12.4 Reasons**

The location, soil type, climatic conditions and size of the site mean that improving the site for horticultural or pastoral uses is not economic.

## **5.13 INFRASTRUCTURE AND GEOLOGICAL ASSESSMENT**

The **Otago Regional Council** (ORC) [116/4] submits that the inconsistency between the infrastructure report and the geological assessment in terms of extent of groundwater should be clarified.

*Infinity Investments Limited* [301/116/4] supports the submission of the ORC.

### **5.13.1 Explanation of the Submission**

The ORC identify an inconsistency between the reports included in Appendix 11 of the Section 32 analysis. Infinity Investments Limited submit that this inconsistency has been resolved through the provision of a further report by Patterson Pitts Partners.

### **5.13.2 Consideration**

Appendix 11 of the Section 32 report contains an infrastructure report provided by Patterson Pitts. Appendix E to that report is a Geotechnical report provided by Mr R Thompson. The ORC requests clarification over the extent of groundwater as identified within the Infrastructure report and the geological assessment.

As a result of the ORC's concerns, further clarification has been provided by Patterson Pitts Limited. This identifies that the reference to 'the reserve land' in the first Patterson Pitts report applies to land outside the site that has been identified as the potential location of the stormwater ponds. The land referred to in Mr Thompson's report is within the Peninsula Bay site. Therefore, the statements are not contradictory, as they refer to different land.

Issues relating to the location of the stormwater ponds will be resolved through the subdivision consent process.

### **5.13.3 Decision**

That the submission of the **Otago Regional Council** [116/4] and the further submission of Infinity Investments Limited [301/116/4] are accepted.

#### **5.13.4 Reasons**

The 'inconsistency' has been clarified through obtaining further information from Patterson Pitts. This explains that the reserve land referred to as being subject to seepage is not in fact on the Peninsula Bay site.

### **5.14 LOCATION OF PENINSULA BAY ABOVE AQUIFER AND ASSOCIATED CONCERNS**

The **Otago Regional Council** (ORC) [116/2], [116/3] and [116/5] submits regarding earthworks and their potential effect on groundwater, and the need to comply with provisions of the Regional Plan: Water (RPW) for Otago.

*Infinity Investments Limited* [301/116/2] opposes the submission of the ORC.

#### **5.14.1 Explanation of the Submission**

Submission [116/2] requests that there is assurance that conditions of permitted activity Rule 12.4.1.1 of the Regional Plan; Water will be met. This may require installation of treatment systems. If assurance can not be given that the permitted activity rule will be met, then any consent required from ORC shall be applied for simultaneously to Variation 25, including maintenance and management details.

Submission [116/3] requests that recognition is given that the site is located above the Wanaka Basin Cardrona Gravel Aquifer.

Submission [116/5] requests that development on site in relation to earthworks and groundwater must not be inconsistent with the provisions of the Regional Plan: Water (RPW); and that this may require obtaining consents from ORC.

Infinity Investments identify that Patterson Pitts Partners have confirmed that the appropriate stormwater treatment effluent system will be installed at the time of subdivision, and this will ensure compliance with the Regional Plan: Water.

#### **5.14.2 Consideration**

The ORC has raised concerns regarding future earthworks and their potential effect on groundwater. While these concerns are important, they can not be resolved through the Variation itself. Instead, they will be resolved through the resource consent process, which will occur at a more detailed level once the Variation has established the planning framework for the site.

It is recognised that the site is located above the Wanaka Basin Cardrona Gravel Aquifer, as shown on Map C1 of the RPW maps. The following policy of the RPW is of particular relevance:

*9.4.19 To identify land which protects underlying aquifers from leachate contamination and to manage excavation, with respect to this land, so that any protective soil mantle or impervious stratum is retained or replaced, or alternative groundwater protection is provided.*

The RPW contains specific rules on the amount of groundwater that can be extracted as a permitted activity within those protection areas.

The Partially Operative District Plan gives effect to the provisions of the RPW through its provisions for earthworks. Part 4.10 of the District Plan contains relevant objectives and policies. The following issue, objective and policy are of particular relevance:

4.10.2 Issue: ***Earthworks have the potential to affect groundwater.***

Objective:

***To avoid, remedy or mitigate the adverse effects from earthworks on:  
(...)  
(f) the water quality of aquifers***

Policy: ***12. To avoid contaminating the water aquifers of the Queenstown Lakes District.***

These provisions apply to any earthworks undertaken within the site. It is noted that although Part 7 of the District Plan contains rules for earthworks, these rules do not apply to earthworks associated with a subdivision. Instead, earthworks are managed through the subdivision consent process.

The provisions of the District Plan ensure that the concerns of the ORC are resolved through the subdivision consent process. The District Council recognises that subdivision consents may also trigger consent requirements from the ORC and in its information to applicants recommends that in these cases, the consent from ORC should be obtained first.

The Water Plan contains provisions identifying that the discharge of reticulated stormwater is a permitted activity, provided that a set of conditions are met, as listed in Rule 12.4.1.1. Appendix 11 to the Section 32 analysis includes recommendations for the management of stormwater. At this stage they can only be recommendations, given that the layout and design of the development is not yet known. Part 15 of the Partially Operative District Plan contains requirements for stormwater reticulation; it is believed that no further amendments to the District Plan are necessary in order to meet the submitter's concerns.

Given the existing provisions within the District Plan, and the provision for these issues through the resource consent process, no amendments to the Variation provisions are required.

#### **5.14.3 Decision**

That submissions of the **Otago Regional Council** [116/2], [116/3] and [116/5] and the further submission of Infinity Investments Limited [301/116/2] are accepted in part, and no changes are made to the Variation as notified. That part accepted is an acknowledgement of the ORC's concerns, that part not accepted is that no amendments to the Plan provisions are recommended.

#### **5.14.4 Reasons**

The concerns raised by the ORC are acknowledged. Given the provisions already contained within the District Plan controlling earthworks and subdivision, further amendments to the Variation provisions are not necessary.

### **5.15 WANAKA STRUCTURE PLAN**

**Upper Clutha Environmental Society (UCESI)** [147/4] submits that the Wanaka Structure Plan phasing diagram should be changed to reflect Map B of their submission, so that phase 4 to the right of Mount Aspiring Road is deleted, and phase 4 to the left of the Clutha River is replaced with 'possible future urban development'.

**Infinity Investments Limited** [301/147/4] opposes the submission of UCESI.

*Julie Perry [304/147/4] supports the submission of UCESI.*

#### **5.15.1 Explanation of Submission**

The Structure Plan identifies an area of the lakeside north of Edgewater Resort and the Sunshine Bay subdivision as Phase 4 for future urban development. UCESI believes there is no support (through Wanaka 2020) for development down the Lake. The phasing map zones other vast areas for future urban development where development could take place with minimal effect. The deletion of these two areas will not limit the capacity of Wanaka to cater for residential growth for well over 20 years.

Infinity Investments submit that UCESI's submission is not relevant to the Variation.

#### **5.15.2 Consideration**

The concerns raised by UCESI relate to the Structure Plan for Wanaka. While the provisions of the Structure Plan are relevant to this Variation, any changes to that Plan are outside the scope of this Variation process. Currently, the Structure Plan is a non-statutory document. If any further changes to the District Plan are promoted in accordance with the Structure Plan, or it is incorporated into the LTCCP, there will be an opportunity for public submission through the statutory process.

#### **5.15.3 Decision**

That the submission of the **Upper Clutha Environmental Society** [116/4] and the further submission of Julie Perry [304/147/4] are rejected, and the further submission of Infinity Investments Limited [301/116/4] is accepted.

#### **5.15.4 Reasons**

Amending the Wanaka Structure Plan is outside the scope of this Variation process.

### **5.16 ERRORS WITHIN VARIATION PROVISIONS AS NOTIFIED**

**Paula Costello** [26/1], [26/2], [26/3], [26/4] and [26/5] lodged a submission requesting the amendment of a number of small errors/inconsistencies within the Variation provisions as notified.

Submission [26/1] requests the amendment of the non-notification provisions by correctly identifying the Outline Development Plan as a restricted discretionary activity. A decision with respect to this submission has been made in section 4.7 of this report.

Submission [26/2] requests the amendment of the Open Space Zone provisions to clarify that any controlled activity within the zone is not subject to the non-complying rules.

Submission [26/3] requests that the Open Space Zone is numbered so that it is consistent with the layout and numbering of other sections within the Plan.

Submission [26/4] requests the amendment of Rule 20.4.2.2 of the Open Space Zone in order to ensure that the provisions are consistent with other sections of the Plan.

Submission [26/5] requests the amendment of the Open Space Zone to ensure consistency with other sections of the Plan.

**Otago Regional Council** opposes submission [302/26/1]

### 5.16.1 Explanation of Submissions

The changes requested ensure that the Variation provisions are consistent with those provisions already in the Plan, and are legally robust. The ORC submit that applications relating to flood risk should not be subject to the non-notification rule.

### 5.16.2 Consideration

The submissions aim to improve the Plan provisions and ensure that the changes are consistent with the other provisions of the District Plan. The changes requested are therefore supported.

The ORC requests the removal of a provision that was not inserted as part of this Variation. Therefore, such a request is ultra vires.

As discussed in Part 4.1 of this report, at the hearing the Panel was alerted to an error on the Zone Boundaries Map. This relates to the configuration of the Open Space Zone at the southern boundary of the Site. The map as notified with the Variation shows the Open Space Zone cutting in just above the proposed access from Hunter Road. It was agreed at the Hearing this is an error, and if retained, would result in the requirement for a non-complying activity consent for a small piece of road connecting the Low Density Residential zone within Peninsula Bay to Hunter Crescent. Amending the map to correct this minor error is therefore necessary and appropriate.

### 5.16.3 Decision

That the submission of Paula Costello [26/1] is accepted, and the further submission of ORC [302/26/1] is rejected, and the following amendment made:

*7.5.4 Non-notification of applications is amended to read:*

*Any application for a resource consent for the following matters may be considered without the need to obtain a written approval of affected persons and need not be notified in accordance with Section 93 of the Act, unless the Council considers special circumstances exist in relation to any such application:*

*(i) All applications for Controlled Activities.*

*(ii) All applications for the exercise of the Council's discretion in respect of the following Restricted Discretionary Activity:*

*(a) Outline Development Master Plan for Peninsula Bay*

*(iii) Applications for the exercise of the Council's discretion in respect of the following Site Standards:*

- Access;*
- Outdoor Living Space;*
- Flood Risk.*
- ~~Outline development master plan – Peninsula Bay.~~*

That the submission of Paula Costello [26/2] is accepted, and the final two paragraphs of 4.6 Non Complying Activities is amended to read:

*Any other activities not listed as Permitted, Controlled, Restricted Discretionary, Discretionary or prohibited.*

That the submission of Paula Costello [26/3] is accepted, and the Open Space Zone provisions are renumbered as attached in Appendix 1.

That the submission of Paula Costello [26/4] is accepted, and paragraph 1 of Rule 20.4.3 is amended to read:

*The following shall be Controlled Activities provided that they are not listed as a prohibited, non-complying or discretionary activity. The matters in respect of which the Council has reserved control are listed with each controlled activity ~~are no controlled activities in the open space zone.~~*

That the submission of Paula Costello [26/5] is accepted, and Paragraph 4.1 of the Open Space Zone is amended to read:

#### *4.1 Cross Referencing*

*Attention is drawn to the following District Wide Rules that may apply in addition to any relevant Open Space Zone Rules. If the District Wide Rules are not met, then resource consent will be required in respect of that matter:*

*(i) Heritage Protection - Refer Part 13*

*(ii) Transport - Refer Part 14*

*(iii) Subdivision, Development*

*and Financial Contributions - Refer Part 15*

*(iv) Hazardous Substances - Refer Part 16*

*(v) Utilities - Refer Part 17*

*(vi) Signs - Refer Part 18*

*(vii) Relocated Buildings and*

*(viii) Temporary Activities - Refer Part 19*

Amend the zoning map as attached to this Variation by correcting the minor error at the southern boundary.

#### **5.16.4 Reasons**

The amendments requested correct minor errors and ensure consistency in terms of layout and cross referencing with other parts of the Plan.

### **5.17 MINOR AMENDMENTS TO VARIATION DOCUMENTS**

**Russel and Pamela McGeorge** [105/1] submit that the Variation should be changed to include 'low density' in front of the word 'residential'.

#### **5.17.1 Explanation of Submission**

The submitters believe that the Variation wording states a change from Rural General to Residential, whereas the proposal is to change to Low Density Residential. They believe that the phrase 'central melt channel open space' is meaningless; and the open space areas on the eastern and western boundaries have reduced significantly from the areas shown in the July 2005 discussion document.

#### **5.17.2 Consideration**

It is unclear as to where in the Variation document the submitter is referring. On page 75 of the Section 32 analysis, the amendments to the planning maps are identified. This shows that significant areas within the Peninsula Bay site will be rezoned Low Density Residential. It is also noted that through the Section 32 analysis, various options are assessed for the rezoning of the

site, these include a special zone, low density residential, a combination of low density and rural residential, and low density and high density residential.

The submitter also comments that the phrase 'central melt channel' is meaningless. The term has been used as a means of describing the different areas within the Open Space Zone.

The submitter also comments that the open space on the eastern and western boundaries have reduced significantly from that shown in the Discussion Document. While this is acknowledged, it is important to recognise that as a result of decisions on other submissions, the overall area of the open space zone has increased significantly.

### **5.17.3 Decision**

That the submission of Russel and Pamela McGeorge [105/1] is rejected.

### **5.17.4 Reasons**

Map A of the Section 32 analysis already refers to 'Low Density Residential Zone'. It is agreed that in the planning maps within the District Plan, Open Space Zone should not include any reference to 'Central Melt Channel'. Through decisions on other submissions, the Open Space Zone will be enlarged in order to ensure protection of landscape and ecological values.



## APPENDIX 1- AMENDMENTS TO PLAN PROVISIONS

The following amendments shall be made to the Partially Operative District Plan, and the planning maps will be amended as illustrated on the zone plan included with these amendments.

### SECTION 7

The amendments to Section 7 are as follows (additions as a result of this decision are underlined, and deletions struck through)

1. Insert the following method under 7.3.3 Implementation Methods:

#### **(ii) Other methods**

(a) Review of the Outline Development Plan for Peninsula Bay by the Urban Design Panel.

(b) A public open day to review the Outline Development Plan for Peninsula Bay

2. Insert the following new restricted discretionary activity Rule:

#### **7.5.3.3**

##### **vi Outline development Master Plan- Peninsula Bay**

Within the Low Density Residential Zone at Peninsula Bay, the Outline Development Plan of the Low Density Residential Zone and the adjacent open space zone lodged with the Council pursuant to Rule 7.5.5.2(xiii), in respect of:

- Roading pattern, including access to and car parking for the use of the adjacent open space zone;
- Indicative subdivision design and configuration, including allotment size;
- Proposed landscaping within any road reserve;
- Pedestrian linkages through the subdivision, and their relationship to the adjacent open space zone, the margin of Lake Wanaka and adjacent residential land;
- Location of easements for public access purposes throughout the Open Space Zone, and their relationship to the pedestrian linkages and roading access within the Low Density Residential Zone.
- The location, height and visibility of future dwellings when viewed from the lake to the north of the site, particularly within the north-western corner of the zone ~~(the area shaded xx on planning map yy).~~

An application for a resource consent for the Outline Development Plan must be accompanied by:

- A statement from the Wanaka Urban Design Panel evaluating the application;
- A statement recording the outcomes of a public open day, including notification, attendance, comments made and ways in which these have been incorporated into the Outline Development Master Plan.

**Amend Section 7.5.4 Non-notification of applications as follows:**

#### **7.5.4 Non-Notification of Applications**

Any application for a resource consent for the following matters may be considered without the need to obtain a written approval of affected persons and need not be notified in accordance with Section 93 of the Act, unless the Council considers special circumstances exist in relation to any such application:

- (i) All applications for **Controlled** Activities.
- (ii) All applications for the exercise of the Council's discretion in respect of the following Restricted Discretionary Activities:
  - (a) Outline Development Master Plan for Peninsula Bay
- (iii) Applications for the exercise of the Council's discretion in respect of the following **Site** Standards:
  - Access;
  - Outdoor Living Space;
  - Flood Risk;
  - ~~Outline development master plan- Peninsula Bay.~~

**Insert the following Zone Standard**

#### 7.5.5.2

#### **xiii Outline Development Master Plan- Peninsula Bay**

No subdivision or development shall take place within the Low Density Residential Zone at Peninsula Bay unless it is consistent with an Outline Development Master Plan that has been lodged with and approved by the Council pursuant to Rule 7.5.3.3(vi)

### **PART 15**

Insert new Issue statement:

#### **15.1.2 (vii) Public access – Peninsula Bay Wanaka**

There is a clear community desire to establish and maintain public access throughout the open space zone within Peninsula Bay, providing linkages throughout the site, and connections to the Lake. Where land is not vested in the Council as a reserve, public access needs to be established through the creation of easements at the time of subdivision. To ensure that the community's desires are met, it is important that the public access easements are established prior to any other development occurring within the site.

#### **15.1.3 Objective 6**

To ensure effective public access is provided throughout the Peninsula Bay land.

### **Policies**

4.13 To ensure that before any subdivision or development occurs within the Peninsula Bay Low Density Residential Zone, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone.

4.14 Within the Peninsula Bay site, to ensure that public access is established through the vesting of reserves and establishment of easements prior to any further subdivision.

4.15 To ensure that easements for the purposes of public access are of an appropriate size, location and length to provide a high quality recreation resource, with excellent linkages, and opportunities for different community groups.

In addition to the above, refer: Open Space Zone Objective 2, Part 20.

### **Explanation and principle reasons for adoption**

It is important that amenity values are maintained, or where possible, enhanced, through the provision of public access. The use of easements for the purposes of ensuring public access enables the bulk of the land to remain in private ownership, with the cost associated with maintenance of that land borne by the landowner/s.

The policies establish that the public access easements must be created prior to any other subdivision or development within the Peninsula Bay Low Density Residential Zone.

Amend new rule 15.2.3.2(ii) (inserted as a result of Variation 25) to read:

(ii) the subdivision of land for the purposes of creating an open space zone and public access easements throughout that zone.

Insert the following additional rules within 15.2.3.4 (v) Non Complying Activities:

(iv) Any subdivision within an Open Space Zone, further to the subdivision pursuant to 15.2.3.2(ii).

(v) Peninsula Bay -

Any subdivision within the Low Density Residential Zone of Peninsula Bay prior to the establishment of the Open Space Zone and public access easements throughout the Open Space Zone pursuant to a subdivision approved under Rule 15.2.3.2(ii).

## **15.2.18 Easements**

### **15.2.18.2 Assessment Matters for Resource Consents**

Add the following additional assessment matters:

The need for easements:

(i) For the provision of public access throughout the Open Space Zone within Peninsula Bay.

Insert the following new zone within the District Plan.

## **20. OPEN SPACE ZONE - LANDSCAPE PROTECTION**

### **20.1 Issues, Objectives and Policies**

### **20.1.1 Purpose of Zone**

The purpose of the Open Space Zone is to protect landscape values, natural character and informal open space of the area. It is intended to keep such areas in a natural state and free of buildings or structures. Such areas may however, be utilised for types of passive recreation that do not require intrusive buildings or structures, such as walking, running and biking.

### **20.1.2 Objectives and Policies**

#### **Objective 1-**

***To protect and maintain natural and ecological values and the open appearance of the Open Space Zone.***

#### ***Policies:***

- 1.1 *By restricting the development of buildings and structures and ensuring that those that are built do not detract from the open character of the zone.*
- 1.2 *By protecting, and where appropriate enhancing, ecological values and indigenous vegetation.*
- 1.3 *By protecting the open appearance of the Zone.*
- 1.4 *By limiting the types of activities that can take place within the Open Space Zone.*
- 1.5 *By ensuring effective maintenance, including pest control, is undertaken within the Open Space Zone.*

#### **Objective 2-**

***To enable public use of the Open Space Zone for passive or informal recreational activities.***

#### ***Policies:***

- 2.1 *By ensuring public access is available to land within the zone.*
- 2.2 *By providing for the creation of a limited number of passive recreation facilities, e.g. walking and cycling trails, picnic and barbeque areas.*
- 2.3 *By limiting recreation activities to informal or passive type activities.*

### **Implementation Methods**

#### **(i) District Plan**

- (a) Rules

#### **(ii) Other methods**

- (a) Public access easements
- (b) Covenants

(c) Deeds of agreement

## 20.2 Rules

### 20.2.1 Cross Referencing

Attention is drawn to the following District Wide Rules that may apply in addition to any relevant Open Space Zone Rules. If the District wide Rules are not met, then resource consent will be required in respect of that matter.

(i) Heritage Protection - Refer Part 13

(ii) Transport - Refer Part 14

(iii) Subdivision, Development  
and Financial Contributions - Refer Part 15

(iv) Hazardous Substances - Refer Part 16

(v) Utilities - Refer Part 17

(vi) Signs - Refer Part 18

(vii) Relocated Buildings and

(viii) Temporary Activities - Refer Part 19

### 20.2.2 Activities

#### 20.2.2.1 Permitted Activities

The following activities are permitted activities in the Open Space Zone.

- i Passive or informal recreation (e.g. walking, running, biking, picnics).
- ii Maintenance activities associated with permitted activities, or those activities that have a resource consent.
- iii Removal/control of weeds and wilding trees.
- iv Fencing of ecologically valued areas.
- v Fencing on the boundary of the Zone where it bounds privately owned land.

#### 20.2.2.2 Controlled Activities

The following shall be **Controlled Activities** provided that they are not listed as a **Prohibited, Non-Complying** or **Discretionary Activity**. The matters in respect of which the Council has reserved control are listed with each Controlled Activity ~~are no controlled activities within the Open Space Zone.~~

##### i Light Stock Grazing

The grazing of light stock (e.g. Sheep) in respect of all of the following:

- Location of grazing areas
- Type of stock to be grazed
- Intensity and duration of grazing activity

##### ii Cycling and Walking Trails

The formation of cycling and walking trails (including boardwalks and viewing platforms) and associated earthworks in respect of all of the following:

- Location of trails and viewing platforms
- Size of viewing platforms and boardwalks
- Earthworks
- Cumulative effect of the number of other trails within the Zone

### **20.2.2.3 Restricted Discretionary Activities**

The following shall be **Restricted Discretionary Activities**. The matters in respect of which Council has reserved discretion are listed with each Restricted Discretionary Activity.

#### **i Picnic and Barbeque Areas**

The forming or construction of any picnic or barbeque areas in respect of all of the following:

- Size and location of picnic or barbeque area
- Scale and siting of structures and seating
- Cumulative effect of the number of picnic or barbeque areas within the Zone

#### **ii Car Parking Facilities and Associated Vehicle Access**

The construction of car parking facilities up to 200m<sup>2</sup> in respect of all of the following:

- Location of facility and access
- Number, design and layout of car parks and associated manoeuvring areas
- Surface treatment of parking facility and access
- Landscaping
- Cumulative effect of the number of car parking facilities within the Zone

#### **iii Fencing**

Any fencing that is not listed as permitted activities in respect of all of the following:

- Location
- Type or form
- Permanency or temporary nature of the fencing
- Cumulative effect of the amount of fencing within the Zone

#### **iv Stock Yards**

The construction and use of any stock yards associated with Light Stock Grazing in respect of all of the following:

- Location
- Type or form
- Permanency or temporary nature of the yards
- Cumulative effect of the number of sets of yards within the Zone

#### **v Vehicle Access**

The provision of one vehicle access road through the Central Melt Channel connecting the two areas of Low Density Residential Zone within the Peninsula Bay land, where this road

has been identified as necessary through the Outline Development Master Plan approved pursuant to Rule 7.5.3.3(vi) in respect of the following:

- Form and location
- Effects on landscape and visual amenity
- Extent and management of earthworks
- Extent of vegetation removal

#### **20.2.2.4 Discretionary Activities**

There are no Discretionary Activities within the Open Space Zone

#### **20.2.2.5 Non-complying Activities**

##### **i Earthworks**

Earthworks not associated with the creation of cycling or walking trails as provided for in Rule 4.4(vi)-20.2.2.2(ii)

~~Vehicle access not associated with Car Parking Facilities as provided for under Rule 4.4(ii).~~

##### **ii Heavy stock grazing (e.g. cattle, deer).**

##### **iii Forestry activities (except for the removal of wilding tree species).**

##### **iv Buildings and structures that are not listed as Permitted, Restricted Discretionary, Discretionary or Prohibited Activities.**

Any other activities not listed as Permitted, Controlled, Restricted Discretionary, Discretionary or Prohibited Activities.

#### **20.2.2.6 Prohibited Activities**

##### **i Residential Units, Residential Flats and Accessory Buildings**

##### **ii Airports**

##### **iii Visitor Accommodation**

##### **iv Commercial Buildings**

##### **v Telecommunication Facilities**

##### **vi Farm Buildings**

##### **vii Planting of any wilding tree species**

##### **viii Vehicle Access**

Any vehicle access except:

- (a) one road through the Central Melt Channel approved pursuant to Rule 20.2.2.3(v), and
- (b) vehicle access associated with car parking facilities as provided for under rule 20.2.2.3(ii).

### **20.2.3 Assessment Matters**

In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited by, the following assessment matters:

#### **i Controlled Activity - Light Stock Grazing**

- (a) Whether the grazing will have an adverse effect on the natural conservation values or ecological values within the Zone.
- (b) Whether the grazing is required as a maintenance measure to reduce weeds and overgrowth.
- (c) Whether the grazing is near water bodies and the extent to which this may contribute to bank erosion and sedimentation of the water body.
- (d) Whether the grazing is to occur on a permanent or continuous basis and the extent to which this may cause adverse effects on adjacent water bodies and ecological values of the Zone.
- (e) Whether the type of stock to be grazed can be contained within low fences and cause low effect on the environment.

#### **ii Restricted Discretionary Activity - Cycling and Walking Trails**

- (a) Whether trails, boardwalks and viewing platforms are located so that they do not detract from the open space appearance of the Zone.
- (b) Whether trails, boardwalks and viewing platforms are located so that they do not adversely affect nature conservation values or ecological values within the Zone.
- (c) Whether the trails provide for safe and convenient access for users, including connections to the existing roading network and car parking facilities.
- (d) The extent to which the size of any viewing platform or boardwalk adversely affects the open space character of the Zone.
- (e) The extent to which the volume of earthworks, exposed area, height of any excavations or fill adversely affects nature conservation or ecological values or open appearance of the Zone.
- (f) Whether the earthworks are in close proximity to water bodies and the extent to which this may contribute sedimentation of the water body.
- (g) Whether alternative picnic or barbeque areas are available in close proximity to the proposed site

#### **iii Restricted Discretionary Activity - Picnic and Barbeque Areas**

- (a) The extent of which picnic and barbeque areas adversely effect the open character of the Open Space Zone.
- (b) The extent of which picnic and barbeque areas affect natural conservation values or ecological values within the Zone.



- (c) Whether alternative picnic or barbeque areas are available in close proximity to the proposed site.

**iv Restricted Discretionary Activity - Car Parking Facilities and Associated Access**

- (a) Whether alternative car parking is available in close proximity to the proposed car park site.
- (b) Whether the parking will be primarily for the recreational users of the Open Space Zone.
- (c) Whether the car parking and manoeuvring areas complies with the standards set out in *Chapter 14 – Transport*.
- (d) The extent of which the car parking facility and access impose on the open character of the Open Space Zone.
- (e) The extent of which the car parking facility and access affect natural conservation values or ecological values within the Zone.
- (f) Whether suitable screening will be provided to prevent vehicle lights shining directly onto adjacent properties.
- (g) Whether any proposed landscaping is in keeping with the scale and character of the site.

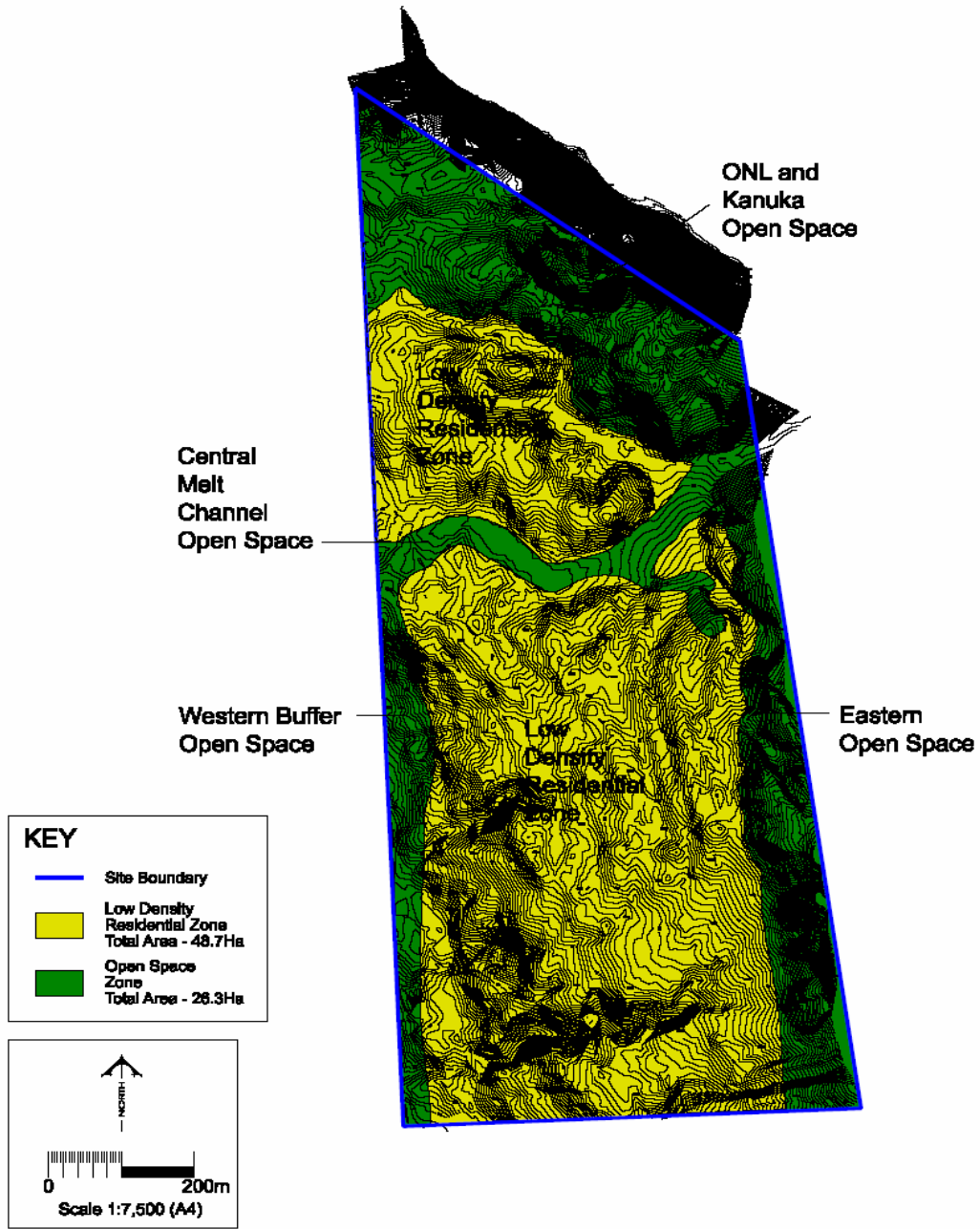
**v Restricted Discretionary Activity - Fencing**

- (a) The extent to which the proposed fencing imposes on the open character of the Open Space Zone.
- (b) The extent to which the proposed fencing adversely affects natural conservation values or ecological values within the Zone.
- (c) Whether the fencing is of post and wire form or other similar type that has little effect on the open space character of the Zone.
- (d) Whether the fencing will be of a temporary nature.
- (e) Whether the fencing is necessary for the control of stock.
- (f) Whether the cumulative effect of fencing in the vicinity of the proposed fence detracts from the open space character of the Zone.

**vi Restricted Discretionary Activity - Stock Yards**

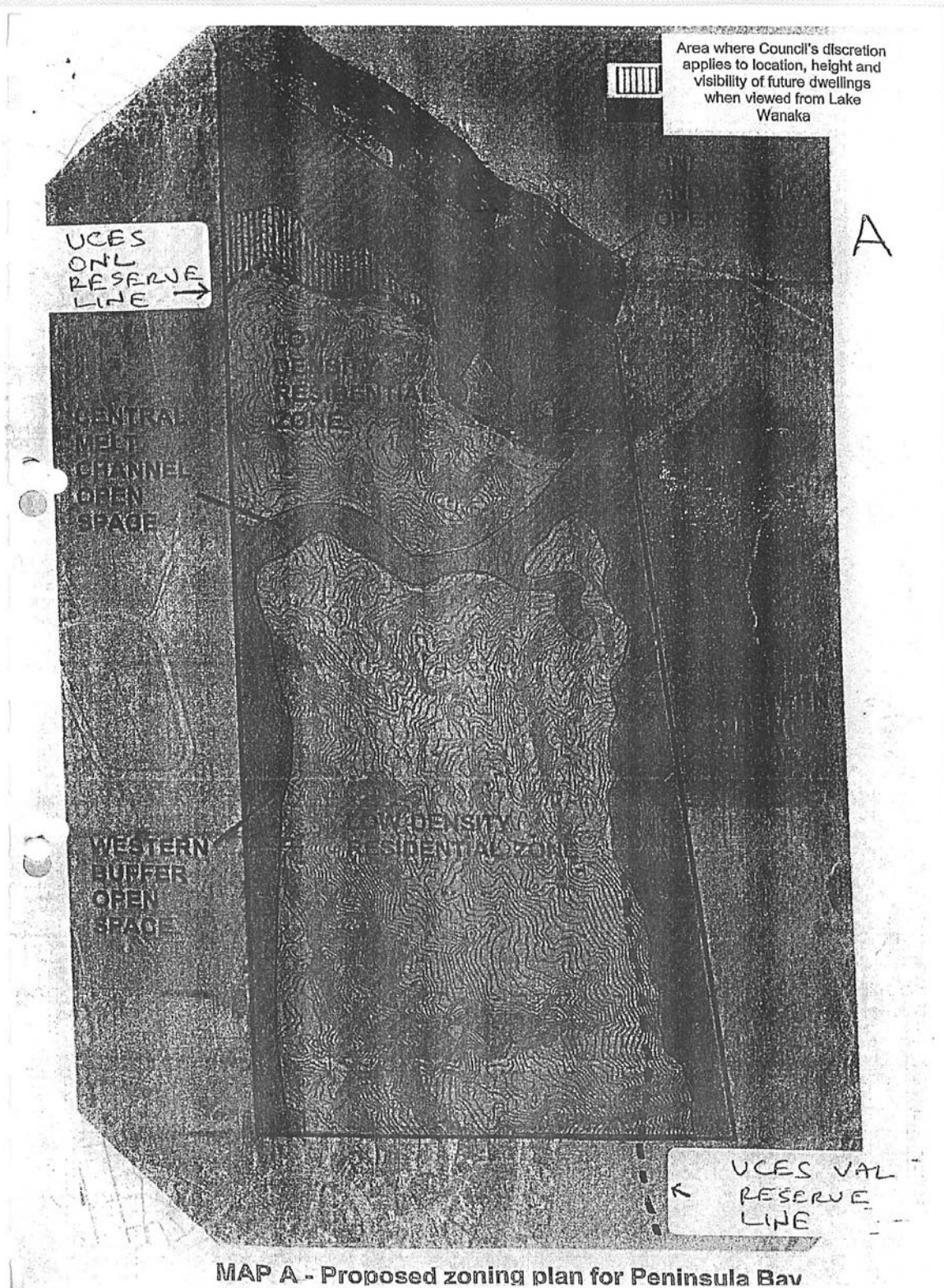
- (a) The extent to which the proposed stock yards impose on the open character of the Open Space Zone.
- (b) The extent to which the proposed stock yards adversely affect natural conservation values or ecological values within the Zone.
- (c) Whether the stock yards are of a low form that has little effect on the open space character of the Zone.
- (d) Whether the stock yards will be of a temporary nature.

- (e) Whether the cumulative effect of the stock yards in the vicinity of the proposed fence detracts from the open space character of the zone.



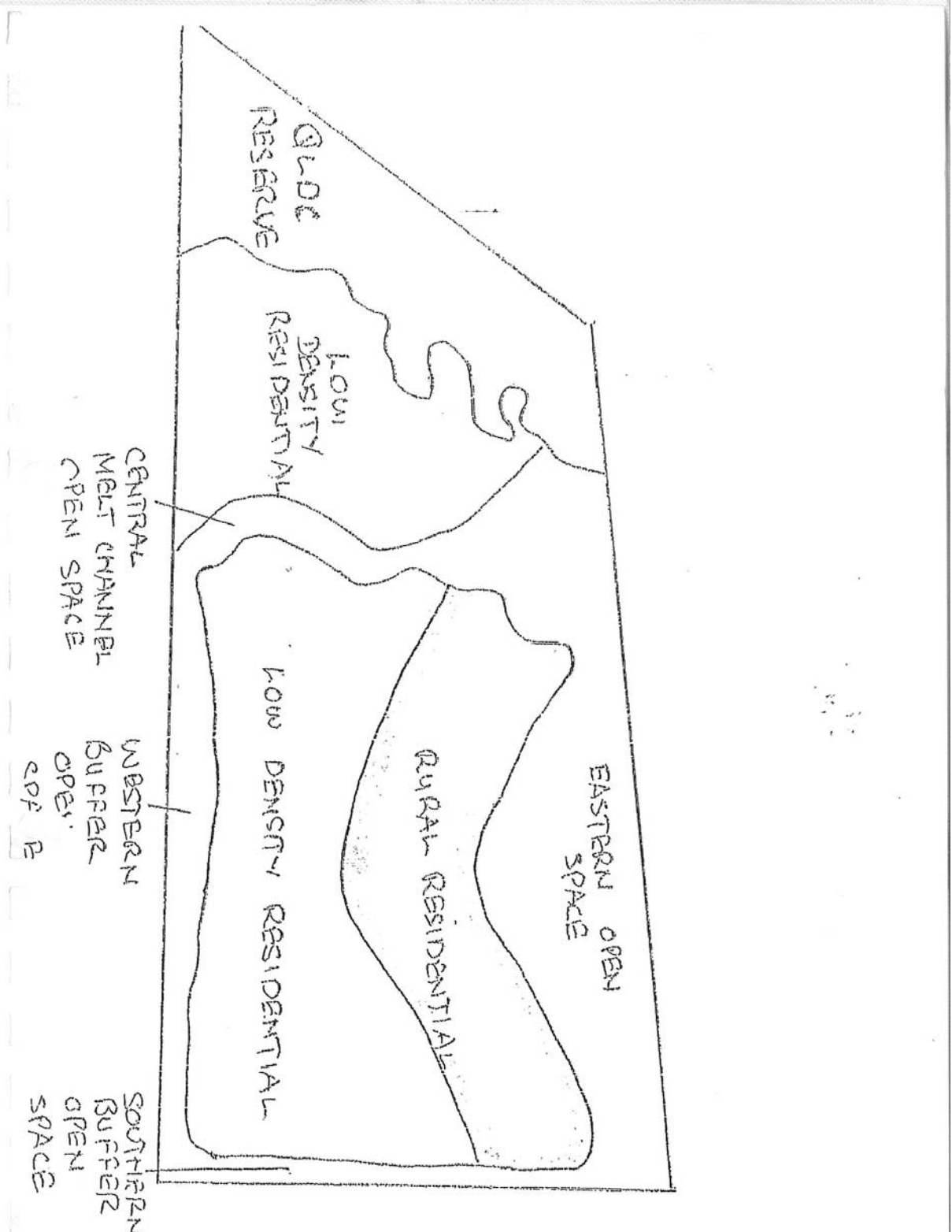
**Zone Plan for Peninsula Bay  
Following Decisions on Submissions**

**APPENDIX 2- ZONE BOUNDARIES AS REQUESTED IN THE SUBMISSION OF UPPER CLUTHA ENVIRONMENTAL SOCIETY**



**MAP A - Proposed zoning plan for Peninsula Bay**

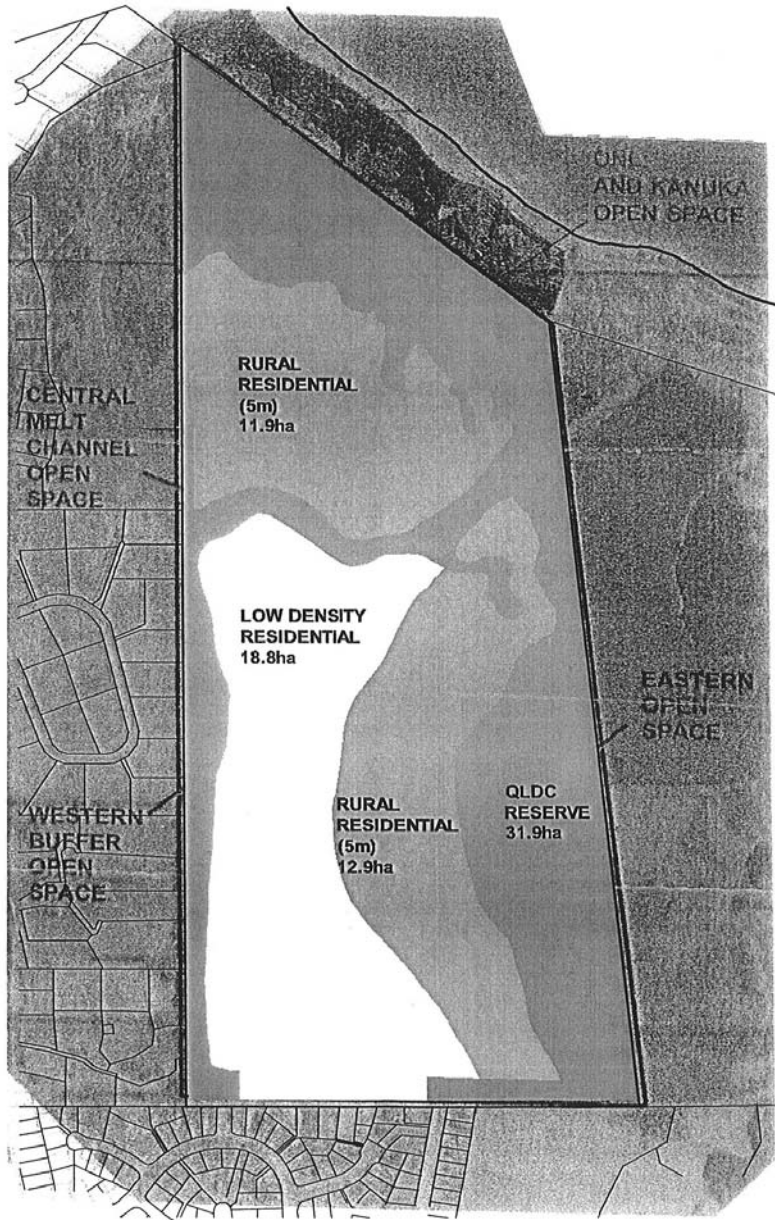
APPENDIX 3(a)- ZONE BOUNDARIES AS REQUESTED IN THE ORIGINAL SUBMISSION OF MR DENNIS THORN



MAP B - Proposed zoning plan for Peninsula Bar

**APPENDIX 3(b)- ZONE BOUNDARIES AS TABLED AT THE HEARING BY MR DENNIS THORN**

*Tabled  
Thorn*



**Map C Proposed zoning plan for Peninsula Bay**

Scale 1:7500