

BEFORE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act
1991

AND IN THE MATTER

of an application for Private Plan
Change 46

APPLICANT

Orchard Road Holdings Limited

**LEGAL SUBMISSIONS ON BEHALF OF SUBMITTER 46 – IAN PERCY
AND FIONA AITKEN, IAN PERCY AND FIONA AITKEN FAMILY TRUST,
AITKEN'S FOLLY VINEYARD LIMITED**

DATED 19 AUGUST 2015

**GALLAWAY COOK ALLAN
LAWYERS
WANAKA**

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1. Introduction

- 1.1. These submissions are presented on behalf of Ian Percy and Fiona Aitken, Ian Percy and Fiona Aitken Family Trust and Aitken's Folly Vineyard Limited ("the Submitters").
- 1.2. Ian Percy and Fiona Aitken jointly own the property and reside at 246 Riverbank Rd. They operate a vineyard on the property through their business Aitken's Folly Vineyard Limited. The vineyard was established in 2009.
- 1.3. Their property directly adjoins the PC46 land. Their land is zoned Rural General.
- 1.4. The Submitters remain opposed to PC46. Their concerns primarily relate to:
 - (a) This plan change being considered ahead of the forthcoming district plan review;
 - (b) Insufficient need for this land to be rezoned at the present time;
 - (c) Road 3;
 - (d) Impact on amenity values;
 - (e) Impact on the vineyard business.
- 1.5. Mr Percy will present evidence addressing points (c)-(e). Planning evidence will be given by Mr Ian Greaves. Jools Hall will also give evidence, being a neighbour of Mr Percy and Ms Aitken, with the same issues of concern.

2. Statutory matters

- 2.1. The Submitters consider the development of this land should be properly considered in the forthcoming district plan review, when all land development in this part of Wanaka can be considered holistically. That exercise can be expected to consider the appropriateness of **all** zoning in this part of Wanaka, which in itself will throw up related issues such as roading and infrastructure.

- 2.2. Ms Devlin has provided you with a map showing the indicative zoning for the new district plan, yet to be notified. I remind you this has no legal status at the present time.
- 2.3. The plan change does not achieve the objectives and policies of the Operative District Plan (ODP). The core task for you as Commissioners in applying section 32 of the Act is to examine whether the content of the plan change is the most appropriate way of achieving the settled objectives and policies of the Plan. The key provisions against which PC46 must be examined are the urban growth provisions in Part 4.9, housing affordability in Part 4.10, Part 5 Rural, Part 7 Residential, and Part 11 Industrial.
- 2.4. The question of demand is critical to that assessment. The Part 4.9 provisions implement in part the Growth Management Strategy for the Queenstown Lakes District dated April 2007 and the Wanaka Structure Plan 2007 ("WSP"). The key elements of objectives 3 and 7 of Part 4.9 and their associated policies are:
- a) Greenfields land for new urban development will be identified within an Urban Growth Boundary.
 - b) Within the Urban Growth Boundary, the supply of new urban-zoned land will be limited to only that which can be demonstrated to be **sufficient to meet identified needs**.
 - c) The purpose of controlling the supply of land within an Urban Growth Boundary is to achieve a compact urban form and the efficient utilisation of land.
- 2.5. The enabling elements of the Part 4.9 urban growth provisions are predicated on the Council having identified an Urban Growth Boundary for Wanaka within which new urban development is to be encouraged.
- 2.6. Absent of an Urban Growth Boundary, making provision for new urban zoned land within Wanaka does not find support in Part 4.9 of the Plan.
- 2.7. In order to pass the section 32 test PC46 must:
- first establish an urban growth boundary; then

- demonstrate how much new urban land is sufficient (but no more than sufficient) to meet the identified community needs.
- 2.8. Very similar issues have recently been raised with the Environment Court in its consideration of the Northlake PC45 private plan change. That decision is awaited. It is expected to provide comment on the urban growth provisions of the Operative District Plan.
 - 2.9. The first obligation of any plan change is that it achieves the integrated management of the effects of the use, development, or protection of land and physical resources of the district (sections 74(1)(a) and section 31(1)(a)).
 - 2.10. Mr Greaves will address in his evidence the concerns he has about both the residential and industrial components of this private plan change. He considers there is no demand for either part of the development and that there is very real potential for an oversupply of land to cause adverse effects such as fragmented communities, inefficient infrastructure networks, duplication of residential amenities such as reserves and open space networks, too much reliance on cars and an inefficient use of existing residential and industrial land.
 - 2.11. In his opinion, the residential zoning should be deferred until there is more need for this land supply.
 - 2.12. Mr Bryce has his own concerns about the residential zoned land, noting that there is "limited justification for it" other than his so-called reinforcing factors that the surrounding land is identified for future residential activity in the Wanaka Structure Plan, the land is appropriately located within the Inner Growth Boundary of the WSP and the rezoning needs to be implemented into the District Plan.¹
 - 2.13. Those factors are somewhat perilous, given the Wanaka Structure Plan has no statutory basis. Despite being developed in consultation with the Wanaka community in 2007, it has never found its way into the Operative District Plan. As noted already the Operative District Plan has failed to identify urban growth boundaries on the planning maps or to advance the concepts identified in the Wanaka Structure Plan in any helpful way. It is important to start from the correct legal

¹ Issue 6.7, 6th page

planning document. It is the District Plan, not the Wanaka Structure Plan.

- 2.14. Mr Bryce states himself that there is an extensive supply of low density residentially zoned land available to meet the current and future demand, but then overcomes this concern by again referring to the Wanaka Structure Plan and his opinion that there is a valid relationship between this residential land and existing employment areas, making a "good access between living and working environments." With respect, this is speculative. There is no reliable information on which to conclude that a PC46 resident is going to work in the Ballantyne Rd or Three Parks areas, or even the CBD. They may travel to Queenstown, or leave their house unoccupied other than for holiday use. That behavioural pattern is quite common in Wanaka already. A very large proportion of homes in Wanaka are holiday homes. Many are new homes, set aside for family holidays and unused by the permanent town population. The last Census figures report 2781 occupied dwellings in Wanaka vs. 1752 unoccupied. The level of unoccupied housing is high, and shows no real signs of reducing.
- 2.15. In his evidence, Mr Dippie endeavoured to assure you that the residential land is needed and the additional supply of this land to market will assist in providing better housing choice to Wanaka. Precisely the same argument was run by the proponent of the recent PC45 private plan change at Northlake, a "flood the market and they will come" approach. Ironically, in the recent Environment Court hearing addressing PC45, that developer (Mr Chris Meehan) asserted in his evidence that it was Mr Dippie who was controlling residential land supply in Wanaka and in so doing, keeping the prices up.
- 2.16. Mr Dippie is the developer here and he has provided absolutely no data to support his claim of market demand for either the residential or industrial land. The evidence is not independent or objective. It is anecdotal. Mr Dippie did not tell you that, should Northlake's PC45 succeed in the form sought by that developer, it will provide another 1500+ residential lots to the market immediately. Further, any change in zoning in the Anderson Rd area may well profit Mr Dippie if

he holds land interests there, and further profit will be made by the development of the industrial component of the PC46 land. Perhaps that is the reason behind PC46. I ask you to consider his evidence very carefully and consider what evidence the Requestor **should** have provided in support of Mr Dippie's claims about market demand.

- 2.17. Regarding the industrial zoning, Mr Greaves will refer you to information produced at the PC36 hearing several years ago which indicated a good supply of industrial land was available for Wanaka, to last approximately 40 years. That analysis **was** objective. It is Mr Greaves' view that the demand for industrial land is overstated by the Requestor and requires further analysis.
- 2.18. In my submission, the relevant statutory documents are:
 - (a) Operative Regional Policy Statement;
 - (b) Proposed Regional Policy Statement;
 - (c) Operative District Plan;
 - (d) Resource Management Act 1991.
- 2.19. Mr Greaves deals with all of these in his evidence and particularly notes the direction of the proposed RPS to plan for future urban growth in appropriate locations and to promote the use and development of rural land in a manner that avoids effects from the loss of highly productive rural land and reverse sensitivity effects on rural productive activities.²
- 2.20. Objective 9.4.1 of the operative RPS will also be referred to by Mr Greaves. The Objective includes promoting the sustainable management of Otago's built environment in order to provide for amenity values. That focus applies here in two ways. First, the impact of PC46 on the Submitters' use and enjoyment of the amenity of their rural land. Second, the effect of the Submitters' viticulture business on the amenity of the residential dwellers on the PC46 land who, in some cases, will be located close to the Submitters' boundary. In its current form, PC46 will be a hard urban edge up against rural zoned land, on which a variety of rural activities are

² Proposed RPS Objective 3.8 and Policies 3.8.1 and 3.8.3 in particular

undertaken. In Mr Greaves' view, that hard edge needs to be softened.

- 2.21. Mr Greaves assesses PC46 against the relevant objectives and policies of the Operative District Plan and concludes that the plan change does not align well with some of those provisions. His primary concerns are directed at objectives and policies addressing sufficient need for residential growth, the management of the scale and distribution of urban development, a lack of affordable housing, effects on rural and residential amenity and the mitigation of the industrial development proposed.
 - 2.22. I note at this juncture that the suggestion that the provision of affordable housing can be assessed with reference to the Requestor's **other** developments is simply not sustainable, or lawful. As I have said you have no credible evidence to support Mr Dippie's claims about that affordable housing. It is the provision of affordable housing **within this plan change** that is at issue.
 - 2.23. In terms of the RMA, the overarching principle of sustainable management is very relevant here. I submit the development proposed does not meet the "in a way and at a rate" principle stated through section 5. The development is well beyond that required to meet the District's needs. I submit the Requestor's evidence lacks objectivity and fails to provide reliable information on which you can base a sound decision that this plan change will benefit the Wanaka community in the manner suggested. The amenity and quality of environment directives in sections 7(c) and (f) are also not met.
- 3. Road 3 and traffic**
- 3.1. The preparation of four traffic assessments is a little unusual. Even more unusually, no traffic expert has attended this hearing to present evidence. I therefore ask you to consider what evidence you may safely rely on in considering the traffic issues? There is none.
 - 3.2. Ms Devlin appeared to consider that any inclusion of the Gordon land into a PC46 outcome did not require any further section 32 assessment, or further analysis by relevant experts. I have found no

mention in the reports of the expected outcome of adding the Gordon land to this development, and the effects resulting from that.

- 3.3. The Submitters I represent do not wish to enter the legal debate on jurisdiction. However, it is worth noting that inclusion of the Gordon land may well open up safer and more sensible roading options. The traffic could well exit through Gordon Rd, at least in part, and avoid the need for Road 3.
- 3.4. In terms of the traffic assessments that have been prepared, I make these comments. Abley prepared the first report, using traffic volume numbers it considered to be realistic, including expected traffic volumes from the Three Parks and Ballantyne Road Mixed Use zones (Plan Changes 16 and 32), and concluding that traffic flows on Ballantyne Rd could be in the order of 925-1020 vehicles in the peak hour towards the north and 575-670 vehicles in the peak hour towards the south. Abley then added to those numbers the expected traffic volumes for the PC36 Industrial B land.³
- 3.5. Abley's report notes that the proposed roading for PC46 is "considered to strike a balance between ensuring there is a suitable separation between the residential and industrial land uses, while also providing appropriate accessibility and permeability."⁴ Sight distances can be provided with the alignments but the Road 3 intersection "will require careful siting at the detailed design stage to ensure that the sight distances can be achieved in practice"⁵
- 3.6. Abley then state that:⁶

"The greenspace provides an opportunity to create off-road walking and cycling routes such that pedestrians and cyclists are able to travel along the northern edge of the residential development separated from motorised vehicles."
- 3.7. Mr Bryce does not appear to challenge these statements in any significant way in his section 42A report. In my submission, the suggestion that Road 3 is acceptable because it avoids a conflict

³ Abley report page 4

⁴ Abley report page 6; see further comment on page 7 about the traffic separation

⁵ Abley report page 6

⁶ Abley report page 7

between residential and industrial traffic⁷ is not well considered. Any traffic accessing Ballantyne Rd from the PC46 land will encounter a mix of industrial and business and residential traffic on Ballantyne Rd, not just from the existing industrial area but from the Three Parks development. It is simply not realistic or sensible to expect any resident, most of all schoolchildren, to safely walk or bike to school through the Ballantyne Rd industrial area. Any access arriving at Ballantyne Rd will require both residential and industrial traffic to be negotiated and the distance to be travelled through that environment should be minimised. The "greenspace" will not solve that dilemma.

- 3.8. There is no information before you explaining how the cycleways will actually service the development, and what they will link to. As far as I can tell, they will simply end at Ballantyne Rd. How does that assist in providing a safe and enjoyable transport route for any resident? This is all relevant to the question of effects and mitigation,
- 3.9. Abley's assessment includes a breakdown of the transportation effects from the PC46 activity and it quite rightly includes all traffic that could occur as of right on Ballantyne Rd. It notes that a roundabout was considered but concludes it is not appropriate at this time because the full effect of all development and the relevant trigger points is not known.⁸
- 3.10. The Submitters request the Commission to consider these points:
 - (a) For traffic safety reasons, Road 3 is in an inappropriate location. The justification of the Requestor and Mr Bryce that this roading network allows residential and industrial traffic to be separated is flawed. It does not achieve that at all.
 - (b) Further thought should be given to how the plan change could incorporate clear and unequivocal provisions requiring a firm trigger point for a roundabout at any point along Ballantyne Rd to service PC46, and whether there is sufficient land to construct a roundabout in the long term. Leaving that to the design stage is fraught with difficulty and uncertainty and does little to address the expected traffic effects.

⁷ Section 42A report, section 6.10 4th page of this section

⁸ Abley report page 9

- (c) It is currently proposed that Road 3 will travel close to the boundary of the Submitters' land, elevated 4m above that land. It will travel along that ridgeline until it turns north at the corner of the Submitters' property. The Submitters are concerned at the impact of this on their amenity – glare from the lights of cars travelling the road which will point at the house, street lighting, traffic volumes and noise. This will be a significant change to the level of amenity they currently experience. They do not consider this road to be necessary to access any land forming part of PC46.
- (d) Mr Percy will mention in his evidence the problems with sunstrike in this part of Ballantyne and Riverbank Rds in the middle of winter. This observation reflects the difference between practice and theory. None of the traffic reports appear to mention this possibility, probably because the traffic experts concerned have not observed the condition themselves. For those who live here, and drive this road every day, the experience is very real, and alarming, given the trucks travelling this stretch of road and the potential for a serious accident to occur. That situation will only get worse due to the increased traffic and additional intersection(s).

4. Amenity Effects

- 4.1. I have already mentioned the Submitters' concerns about the adverse amenity effects they expect to experience from Road 3. They are also concerned about the effect of the residential and industrial development on their amenity. The Requestor's approach to some aspects of these concerns is that design and landscaping can form part of the resource consent for subdivision and/ or development. This provides absolutely no certainty of outcome for my clients.
- 5. Mr Baxter has produced a plan of suggested mitigation which Mr Percy will comment on. He will note with you that a setback distance is far more relevant to the Submitters than planting. Planting does not address the acoustic effect of the frost fan. Distance does assist. The reverse sensitivity effects were, inexplicably, not addressed in the Requestor's evidence.

- 5.1. Importantly, a recent resource consent sought by the same applicant, Orchard Road Holdings Limited, for an Outline Development Plan for its Industrial B land (Ballantyne Road Precinct) was granted on 3 July 2015 (see Appendix 3 to Mr Greaves' evidence). The application was not notified. ORHL did not provide landscaping details with the application and the Council imposed conditions around landscaping treatment of the open space area. ORHL has challenged some conditions of that consent, including a requirement in the landscape plan that trees should provide a minimum 25% canopy coverage of the reserve when mature. The reasons for the objection are stated in the objection letter as:
- "ORHL considers that 25% canopy coverage of the reserve is excessive and in reality is not easily achievable. ORHL may have mistakenly agreed to this level of coverage in previous discussions with the processing planner but on proper consideration of the requirement consider it to be unworkable."⁹
- 5.2. With respect, "proper consideration" of the impacts of mitigation should occur at the time a consent, or in this case a plan change, is considered. How reliable can any plan change provision be if the Requestor decides later to challenge a mitigation measure that addresses amenity, and in so doing excludes Submitters from any resolution of that process? The "change of mind" apparent from the above quote is simply disingenuous.
- 5.3. That is the very reason why the Submitters oppose so many aspects of this plan change falling to be decided at a later stage. There is no certainty of outcome, and certainly no certainty that they will be asked to comment on any outcome.
- 5.4. Mr Bryce has suggested some mitigation measures to address my clients' amenity concerns, including landscaping and mounding, and notes the plan change should be supported "by a more effective landscape response". While the Submitters are encouraged by Mr Bryce's response, Mr Percy will say in his evidence that none of the landscaping for the Ballantyne Rd Precinct Industrial area has been

⁹ See Attachment 1 to these submissions

implemented yet even though that was approved two years ago. He is not confident that PC46 mitigation addressing amenity will be enforced, or even implemented, and with good reason.

- 5.5. Mr Greaves will tell you that the implementation of landscaping and mounding is likely to be compromised by the presence of a stormwater detention pond within the open space area.
- 5.6. The application lodged for the ODP mentioned above included this statement:¹⁰

"ORHL will continue to promote Plan Change 46 and will develop the Ballantyne Road Precinct in a manner that will not compromise what is being promoted through Plan Change 46."
- 5.7. How can this be correct? ORHL will not be in a position to establish the required Open Space area for the Ballantyne Industrial Precinct if PC46 proceeds because the new industrial lots will overtake that open space. The ODP just approved will become void as it cannot be given effect to.
- 5.8. None of the Requestor's evidence has addressed potential mitigation of the industrial area proposed. The Submitters question what design controls could be incorporated here to mitigate effects.
- 5.9. I ask you to carefully consider what this Requestor is telling you. The mitigation to be achieved through the Ballantyne Industrial Precinct is far from clear and is under challenge by the developer. Quite how that mitigation overlaps with PC46 is unclear and there are very real questions over whether the PC46 mitigation Mr Bryce is proposing can actually be achieved at all.
- 5.10. If the plan change is to proceed, significant changes are required to ensure that landscaping will reliably achieve the desired mitigation and that it is firmly tied back to the requirements of the District Plan and is beyond challenge.
- 5.11. If a plan provision requires landscaping to be undertaken, that condition must specify what the landscaping (e.g. via the Landscape Management Plan) is to achieve and what the conditions are to


¹⁰ Attachment 2 to these submissions, para 2.4.2

require. Otherwise, the provision will be ultra vires as it will reserve a discretion to the Council. The outcome sought must be clear, to avoid any wriggle room for the developer. It ~~is~~ must specify what the conditions require. If the purpose of the landscaping is to prevent views of buildings from an identified location, the provision must state this.

- 5.12. Mr Greaves will address this in his evidence and set out why he also considers the Open Space Area should be increased to 50m. There is a real difference between Mr Bryce's Connell Terrace example and this plan change and the effects that are being addressed. If the developer loses some land as a result of the 50m increased setback, so be it. The surplus of residential and industrial land in Wanaka means there is no loss to the community, thus section 5 is not breached.
- 5.13. The Submitters are concerned about the proposed height of the industrial buildings. A 7m high building at the edge of this zone will result in the Submitters losing a very significant part of their view, 75%. They do not accept that viewing these buildings in the context of the existing Industrial A and B zoned land will assist them or is even relevant. The PC46 Industrial buildings will be closer to them, and have far more visual impact.
- 5.14. Mr Percy will also tell you about the noise impacts of the existing industrial area and the desire of the Submitters to avoid any further intrusion into their rural amenity of such an activity.
- 5.15. As I have already mentioned, the amenity point is a two way thing. Aside from protecting their own rural amenity, the Submitters also wish to ensure any new neighbours enjoy their amenity too and that the Submitters' vineyard operation is not compromised by new residential neighbours, who may not find the use of the frost fan on the vineyard to their liking and take to lodging a series of complaints. This potential land use conflict requires very careful consideration. It has the potential to seriously impact on my clients' business, which is operating lawfully and with the appropriate consent in place. Mr Percy will explain the vineyard's use of the frost fan and Mr Greaves will relate this land use to the suggested 50m setback.

6. **Conclusion**

- 6.1. On behalf of the Submitters, I request that this plan change be refused. There is insufficient need for this land to be rezoned in the manner proposed. Wanaka does not need this land to be developed in this way or at this rate at the present time.
- 6.2. There are two independent planners before you, Mr Bryce and Mr Greaves. With all due respect to Ms Devlin, her evidence cannot be considered independent and objective given her employment as the Requestor's General Manager – Planning and Development. Ms Devlin has not referred to the Expert Witness Code of Conduct in her evidence.
- 6.3. Both Mr Bryce and Mr Greaves express some concern about the need for this plan change to proceed at the present time, albeit in different ways, and the need for mitigation to occur. I submit their evidence must be given more weight than Ms Devlin's.
- 6.4. Should the plan change proceed, the Submitters seek the relief set out in their submission and as commented on through the evidence you are about to hear from Mr Percy and Mr Greaves.


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**Jan Caunter, Counsel for Ian Percy and Fiona Aitken, Ian Percy and
Fiona Aitken Family Trust and Aitken's Folly Vineyard Limited**

Date: 19 August 2015

Attachment 1 ORHL letter of objection dated 9 July 2015



PO Box 170
Dunedin 9054
03 474 9911

9th July 2015

Resource Consent Manger
Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Attn: Blair Devlin

Dear Blair,

NOTICE OF OBJECTION TO CONSENT AUTHORITY UNDER SECTION 357A OF THE RESOURCE MANAGEMENT ACT 1991

RM150049 – BALLANTYNE ROAD, WANAKA

We refer to the decision on RM150049, which grants conditional consent for an Outline Development Plan for Industrial B Zone in the Ballantyne Road Precinct.

We write to give notice of our objection to conditions 4(b), 4(g), 5(c) and 8 of the consent.

Condition 4(b)

Condition 4(b) relates to details of the street reserve landscaping and requires:

4(b) Sufficient soil depth for trees. The preferred volume is 8m³.

ORHL objects to the inclusion of this condition and requests that the condition be amended as follows:

4(b) Sufficient soil depth for trees. ~~The preferred volume is 8m³.~~

The reasons for the objection are as follows:

ORHL has extensive experience in both landscaping and the planting of trees in road reserves of subdivisions. The volume of 8m³ is too great for a tree in a road reserve. OHRL will plant to a sufficient soil depth for the trees and will ensure each of the trees establish.

Condition 4(g)

Condition 4(g) also relates to the street reserve landscaping and requires:

4(g) A two year maintenance plan shall be submitted prior to vesting of any road to Council. The 2 years maintenance plan shall be undertaken by the developer.

ORHL objects to the inclusion of this condition and request that the condition be amended as follows:

4(g) A ~~two~~ one year maintenance plan shall be submitted prior to vesting of any road to Council. The ~~2~~ 1 years maintenance plan shall be undertaken by the developer.

The reasons for the objection are as follows:

ORHL objects to a two year maintenance plan for the street reserve. The maintenance period for previous projects has always been one year and this is more appropriate. ORHL submits that it only takes one year for street reserve landscaping to establish. If the planting is going to die it will happen within the first year and not between one and two years. ORHL is concerned that the whole project would be delayed in getting sign-off for the sake of the maintenance of a few street trees.

Condition 5(c)

Condition 5(c) relates to the provision of a landscape plan and requires:

5(c) Trees should provide a minimum 25% canopy coverage of the reserve when mature.

ORHL objects to the inclusion of this condition and requests that it is deleted.

The reasons for the objection are as follows:

ORHL considers that 25% canopy coverage of the reserve is excessive and in reality is not easily achievable. ORHL may have mistakenly agreed to this level of coverage in previous discussions with the processing planner but on proper consideration of the requirement consider it to be unworkable.

Condition 8

Condition 8 reads:

At the time of subdivision the stormwater disposal design shall ensure that the rate of stormwater discharge remains equal to or less than that of pre-development up to the 1 in 100 year average recurrence interval event.

ORHL objects to this condition and requests that the condition be amended as follows:

At the time of subdivision the stormwater disposal design shall ensure that the rate of stormwater discharge run-off remains equal to or less than that of pre-development up to the 1 in 100 year average recurrence interval event.

The reasons for the objection are as follows:

ORHL's engineers have reviewed the wording of this condition and find it to be unclear. Their understanding is that the condition is referring to any water that doesn't go to the soak-pit shall remain equal to or less than that of pre-development. ORHL's engineers have suggested that the condition can be made clearer by replacing the word 'discharge' with 'run-off'.

We look forward to receiving your decision on this objection.

Yours sincerely

Alison Devlin
General Manager – Planning and Development

**Attachment 2 ORHL application for Outline Development Plan for
Industrial B Ballantyne Road Precinct**

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Industrial B Zone Ballantyne Road Precinct Outline Development Plan

January 2015



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1.0 INTRODUCTION

- 1.1 This assessment of effects on the environment accompanies an application by Orchard Road Holdings Limited (ORHL) for resource consent for an Outline Development Plan (ODP) for the Industrial B Zone and is prepared in accordance with section 88 and Schedule 4 of the Resource Management Act 1991.
- 1.2 The Zone was made operative on 6th June 2013. The architecture of the Zone is such that all development must be in accordance with approved ODP's. ODP's must comply with the relevant Structure Plan contained within the Queenstown Lakes District Plan (the District Plan). This ODP relates to the Ballantyne Road Precinct Structure Plan.

2.0 DESCRIPTION OF PROPOSAL

2.1 *Site Description*

- 2.1.1 The ODP relates the Ballantyne Road Precinct of Industrial B Zoned land and comprises approximately 12.2ha of land legally described as Lot 99 DP 445766 and Lot 3 DP 374697. A copy of the certificate of title and consent notice is contained at **Appendix A**.
- 2.1.2 The site is located to the rear of a developed strip of industrial land on Ballantyne Road. The site is accessed via the already formed Enterprise Drive.
- 2.1.3 The site is currently vacant land used for casual sheep grazing and pastoral grass production. In terms of landform, the site is part of a flat glacial and fluvial landform between Lake Wanaka, the Cardrona River, Mount Iron and the Cardrona Range. It is within the larger fluvial terrace system and as such is flat. There are no geological or topographical elements evident.

2.2 *Ballantyne Road Precinct Structure Plan*

- 2.2.1 The Ballantyne Road Precinct Structure Plan is contained at page 11-40 of the District Plan.
- 2.2.2 The Structure Plan identifies two stages of industrial development and an area of fixed open space. Rule 11.5.6 Ref 14 requires that an ODP includes all the land contained within the Structure Plan.

2.3 *Ballantyne Road Precinct ODP*

- 2.3.1 The proposed Ballantyne Road Precinct ODP is contained at **Appendix B**. The ODP extends to cover the area identified in the Ballantyne Road Precinct Structure Plan.
- 2.3.2 The ODP shows the proposed subdivision of the two stages of the precinct. Stage 1 provides for 18 lots (lots 10 to 27) ranging in size from 1,045m² to 2,510m². Stage 2 provides for 5 lots (lots 28 to 32) ranging in size from 1,265m² to 2,690m².

- 2.3.3 Access to the industrial land will be from Enterprise Drive, which has already been formed to a level capable of supporting the additional industrial development proposed in the ODP. An extension of Enterprise Drive in the form of a loop road is proposed through Stage 1, which is consistent with the Structure Plan.
- 2.3.4 The Structure Plan shows a fixed access point from the Ballantyne Precinct to the neighbouring industrial land. Land for this future access point has been safeguarded so the access can be formed when required.
- 2.3.5 The open space shown on the Structure Plan has been included in the ODP. Provision has been made for a walking/cycle path, which it is envisaged will link through neighbouring land in the future. Details of landscaping of the open space have also been included in the ODP.
- 2.4 *Plan Change 46*
- 2.4.1 Plan Change 46 is a private plan change promoted by ORHL to rezone approximately 19.3ha of land from Rural General Zone to Low Density Residential and Industrial B zones. Of this, 13.4ha is to be rezoned Low Density Residential and 5.9ha is to be rezoned Industrial B Zone. An open space area of 3.3ha is proposed between the Industrial B and Residential areas.
- 2.4.2 Plan Change 46 was lodged with Council in July 2013 and has been accepted by Council subject to the provision of more detail relating to roading. The Plan Change has yet to be notified and the notification and decision-making process may take some time. In the meantime the existing industrial land owned by ORHL has all been sold and additional land is needed in the short term. ORHL will continue to promote Plan Change 46 and will develop the Ballantyne Industrial Precinct in a manner that will not compromise what is being promoted through Plan Change 46.

3.0 REASONS FOR THE APPLICATION

- 3.1 Rule 11.5.5 Ref 18 provides for ODP's as a Restricted Discretionary Activity, subject to meeting relevant performance standards.
- 3.2 The ODP complies with all relevant performance standards and should therefore be considered as a **Restricted Discretionary Activity**.

4.0 ASSESSMENT OF ACTUAL OR POTENTIAL EFFECTS

- 4.1 The ODP is consistent with the Ballantyne Road Precinct Structure Plan and the broad level effects of the Structure Plan, including the roading, servicing, landscape effects were all considered through the plan change. Further detailed consideration of such aspects as servicing and ground conditions will be addressed at the subdivision stage.

- 4.2 This AEE focuses on the actual and potential effects on the environment as a result of the development that will be enabled through the ODP. These effects are identified through the Assessment Matters contained within the Industrial B Zone relating to ODP's. Each of those assessment matters as they apply to the proposed ODP are addressed below:

Assessment matters 11.6.2ii

In regard to the indicative subdivision/development layout:

Whether the road layout is efficient, legible, and pedestrian friendly.

- 4.3 The subdivision will be entered via the existing Enterprise Drive and will follow the road layout on the Structure Plan, including provision for a future link to the adjacent industrial land. Pedestrian links will also be provided through the open space area.

- 4.4 A road cross section is provided at **Appendix C**.

With regard to the location of fixed roads, the Council will only allow these to move more than 50 metres for a fixed road provided the integrity of the Structure Plan is not compromised and only for the following specific reasons:

- (i) Where there are key infrastructure matters that make the indicated paths of the roads impractical; and/or*
- (ii) More appropriate subdivision patterns and street layouts will result from the movement of the collector road;*

- 4.5 The location of the fixed road has not moved more than 50m from the location shown in the Structure Plan. **Appendix D** shows the ODP overlain on the Structure Plan and confirms the locations of the roads is within 50m of the Structure Plan.

Whether the urban structure is well connected and cul-de-sacs avoided.

- 4.6 A cul-de-sac is required in Stage B given the limited depth of the land available to create a link road and the small number of lots to be serviced by the road in this Stage. Stage A is well-connected via Enterprise Drive and provision has been made for a future link through to the adjacent industrial area.

Whether the number of rear sites has been minimised.

- 4.7 No rear sites are proposed in the subdivision.

Whether the lot configuration, dimensions and orientation will result in lots that maximise solar gain and have logical boundary lines.

- 4.8 The layout has logical boundary lines and the lots are of a sufficient size that buildings can be located to maximise solar gain.

Whether and to what extent the ODP incorporates the various open spaces identified on the Structure Plan.

- 4.9 The ODP incorporates the entire open space area identified on the Structure Plan.
- Whether public open spaces and the urban form are designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED).*
- 4.10 The ODP has been designed in accordance with the principles of CPTED as far as is practicable for a small-scale industrial area. Routes within the site are well-defined and logical and the open space is over-looked by the industrial lots.
- Whether the public open spaces form part of an open space network which provides pedestrian and cycle linkages to other open space, community facilities and other zones.*
- 4.11 It is envisaged that the open space will eventually link with other open space as the neighbouring land becomes more developed. In the first instance the open space will serve as an amenity area for those working within the industrial area, as well as buffering the industrial area from the rural land beyond.
- Whether and to what extent dedicated, direct and safe pedestrian and cycle links are provided.*
- 4.12 Pedestrian footpaths are provided on the roading within the site. Provision is also made for a walkway/cycleway through the open space, although this will not link into the wide network until neighbouring land is developed.
- Whether a detailed landscape plan has been provided for all open space areas and proposed road reserves within the ODP.*
- 4.13 A plan of the proposed landscaping is included at **Appendix E**. The plan incorporates a large green space which includes a cycle/walkway and the planting of 58 Fastigiata Oak trees along this walkway, which will also provide amenity screening.
- Regarding transportation and reducing car trips/trip distances, the Council will consider whether an ITA has been provided and whether adequate space has been provided in the road reserve for a bus stop to be located every 400m.*
- 4.14 An ITA has not been provided as what is proposed is a relatively small-scale industrial subdivision with an internal roading network capable of servicing industrial activities. The nature of industrial activities is such that vehicular movements are a necessary characteristic. Workers will have the option of cycling to work and all lots are within walking distance of Ballantye Road, which is an arterial road likely to accommodate bus routes in the future.
- Regarding the management of stormwater, the ODP is expected to identify stormwater collection and reticulation methods and the areas that will be developed as stormwater treatment and disposal facilities.*
- 4.15 A stormwater treatment and disposal area is shown on the ODP. All run-off from the industrial sites and road will be collected and reticulated to the treatment and disposal area. Run-off from roads will be collected by mudtanks with syphon outlets, thus trapping the

sediment and floating debris. The run-off will then be treated by a “downstream defender” to remove any remaining sediment, floatables, oil or grease before discharging to ground.

- 4.16 The soakage pit and retention pond will be sized such that all run-off from a 1 in 100 year event will be contained and have been designed by a suitably qualified engineer to ensure there is no risk of land instability or property damage from a 1 in 100 year rain event. There is scope to extend the treatment and disposal system in the future should it be required.
- 4.17 The retention pond will be planted with dry-land pasture grasses to be in keeping with the existing surrounding land and to minimise any visual impact. The retention pond will only have water in it during large rain events so is not designed as a wet-land area.
- 4.18 Run-off from the completed development will be no greater than run-off from the site pre-development.

5.0 ASSESSMENT AGAINST RELEVANT OBJECTIVES AND POLICIES

- 5.1 Objective 1 of the Industrial B Zone is for a high quality, functional area that provides for a wide range of business, industrial service and trade-related activities and avoids residential, office and most retail uses. This is supported by relevant policies which seek to:
 - Ensure that development and subdivision only occurs where either the necessary infrastructure exists to service it or temporary measures have been agreed to by the Council or the applicant has agreed to connect to the Council reticulated system once available;
 - Small lot subdivision shall be avoided unless combined with a land use resource consent which illustrates how a complying development can occur on the site;
 - Require street layouts to:
 - o Be well-connected with cul-de-sacs being avoided wherever connected streets would offer greater efficiency and amenity;
 - o Minimise the creation of rear sites;
 - o Be safe for vehicles, cyclists and pedestrians;
 - o Minimise opportunities for criminal activity through incorporating “Crime Prevention Through Environmental Design” (CPTED) principles as appropriate in the design of lot configuration and the street network, car parking areas, lighting, public and semi-public spaces, accessways, landscaping, fencing and the location of compatible uses.
 - To recognise that the relocation of a fixed road by more than 50m or a fixed connection point by more than 20m (from that shown on the relevant structure plan) is likely to significantly affect the integrity of the Structure Plan and should be avoided.
- 5.2 The ODP is being advanced now as the adjacent industrial land along Ballantyne Road has been fully developed and sold. The proposal is efficient in terms of the location of servicing as it will be able to be serviced from Enterprise Drive, which is already formed up to the ODP boundary.

- 5.3 The lot sizes are all over 1,000m² and comply with the minimum lot size for the Zone.
- 5.4 The location of the road in the ODP is consistent with the relevant structure plan in order to avoid affecting the integrity of the Structure Plan.
- 5.5 Objective 2 of the Industrial B Zone is to effectively mitigate the adverse visual effects of business and industrial development when viewed from private or public places and to effectively mitigate the adverse nuisance effects on the amenity of residential zones within the vicinity of the Industrial B Zone.
- 5.6 The relevant supporting policies seek to:
- Ensure that the fixed open spaces shown on the relevant structure plan are provided in order to separate and partially screen the zone from adjacent existing or future residential zones in order to minimise the visual, noise, dust, and odour effects of development from both public and private places;
 - Avoid buildings within the fixed open areas shown on the relevant structure plan other than on the designated 'buildable areas', upon which certain small scale buildings shall be allowed in order to ensure the viable long term maintenance of those open spaces;
 - To require high quality planting and mounding of open spaces where this is specifically identified as required in the provisions in order to mitigate the visual effects of development within the zone;
 - To avoid excavation on the fixed open space areas identified on the relevant structure plan unless it is for the express purpose of providing for the 'pedestrian/connection point' shown in the structure plan.
- 5.7 The ODP includes an area of open space, as shown in the relevant Structure Plan. This will separate and screen future development from future residential development to the west of the precinct and from existing rural lifestyle sections to the south. No buildings or excavations are proposed within the open space area other than to create the proposed walkway.
- 5.8 Details of planting for the open space area have been included at **Appendix E**.
- 5.9 Objective 3 is for a street layout, well-considered building design, and other initiatives that, together, help to reduce car use and provide practical alternatives. The relevant supporting policies seek to:
- Require that the street layout and cycle and walking networks are designed to:
 - Enable public transport to efficiently service the area, now or in the future;
 - Reduce travel distances through well-connected streets; and
 - Provide safe, attractive and practical routes for walking and cycling, which are well-linked to existing or proposed passenger transport and, which are well-connected to other areas beyond the zone.

- To require applications for ODP's and large scale development to show how they will help reduce private car travel and encourage realistic alternative modes of transport.
- 5.10 The ODP area is within walking distance of Ballantyne Road, which is likely to be a future bus route. The ODP area also has the potential to link through to the adjacent industrial area to improve connectivity and it is envisaged that the footpath/cycleway within the open space will eventually link in with a wider footpath/cycle path network.
- 5.11 Objective 4 is for a subdivision layout and built form that demonstrates best practice in terms of achieving environmental sustainability. This is supported by relevant policies which seek to:
- Ensure, through the street layout, that buildings are located and orientated in a way that achieves good solar access;
 - To incorporate stormwater and sediment management options that ensure that:
 - The rate of discharge remains equal to or less than that of pre-development
 - The quality of water in the discharge remains equal to or better than that of pre-development.
- 5.12 The lot layout shown in the ODP will enable buildings to be orientated to maximise solar access. Stormwater management details are shown on the ODP and described in sections 4.16 – 4.18 of this AEE.
- 5.13 Overall the ODP complies with the relevant objectives and policies of the District Plan.

6.0 CONCLUSION

- 6.1 In conclusion, the application is for ODP approval for the Ballantyne Road Industrial Precinct. The ODP is consistent with the relevant structure plan contained in the District Plan in terms of staging, roading and open space. The proposed lot sizes also comply with the minimum lot sizes for the Zone.
- 6.2 There is a need for more industrial land at this location in the short term. ORHL will develop the land in such a manner that it will not compromise the ability to implement Plan Change 46 in the event that Plan Change 46 is made operative.
- 6.3 Overall the ODP complies with the relevant objectives and policies of the District Plan and clearly aligns with the District Plans intentions for Industrial B Zone the Ballantyne Road Precinct.