



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	WILLOWRIDGE DEVELOPMENTS LIMITED
RM reference:	RM160606
Location:	Kane Road, Hawea Flat
Proposal:	16 allotment subdivision comprising 13 residential lots and three access lots and identify 13 residential building platforms
Type of Consent:	Subdivision and land use consent.
Legal Description:	Lot 1 DP 341373
Zoning:	Rural General
Activity Status:	Discretionary
Notification:	Public
Commissioner:	R Nixon & W Baker
Date Issued:	23 March 2017
Decision:	Declined

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the Queenstown Lakes District Plan
IN THE MATTER	of an application for resource consent to undertake a subdivision creating 13 residential allotments
BY	WILLOWRIDGE DEVELOPMENTS LIMITED – RM160606

DECISION OF COMMISSIONERS ROBERT NIXON AND WENDY BAKER

Introduction

1. The applicant sought to undertake a 16 allotment subdivision comprising 13 residential lots and three access lots and identify 13 residential building platforms on a rural site bounded by Luggate-Tarras Road (SH8A), McKay and Kane Roads, north of Luggate.
2. The application site comprises 118.76 ha and is legally described as Lot 1 DP 341373. Proposed lots 1 – 12 range in area from 1.45 ha to 4.5 ha, with a large balance Lot 13 comprising the balance of the site with an area of 88.92 ha, including a consented quarry at its southern end.
3. We have been delegated the Council's powers pursuant to Section 34A to hear and decide this application and decide on any procedural matters related to the hearing of it.

Hearing and Site Visit

4. We undertook a site visit on 6 March 2017 accompanied by Ms Sarah Picard, Council Senior Planner. As part of the site visit we walked across the subject site on the upper terrace and along Kane Road in front of the subject site. We also viewed the planting of kanuka that has been recently undertaken on the subject site by the applicant in exercising resource consent for a quarry on the same site (RM150294). We undertook a further site visit on 7 March 2017 to the viewpoint off Newcastle Track and viewed the site from this vantage point.
5. The hearing was held in Wanaka on 7 March 2017.

6. We adjourned the hearing on 7 March 2017 having heard all evidence and closing submissions. The adjournment was to allow for the applicant to clarify the mitigation measures recommended in the Geotechnical report. This information was provided on 8 March and the hearing was closed on this date.

Abbreviations

7. “ODP” – the Operative District Plan
 “PDP” – the Proposed District Plan
 “RPS” – the Regional Policy Statement
 “PRPS” – the Proposed Regional Policy Statement
 “the Applicant” – Willowridge Developments Limited
 “ONF” – Outstanding Natural Feature
 “VAL” – Visual Amenity Landscape

Appearances

8. For the applicant:
 Mr G Todd – Counsel
 Mr A Dippie – Director of the applicant company
 Ms A Devlin – General Manager of Planning and Development for the applicant company
 Mr S Skelton – Landscape Architect
 Mr M Suddaby – Surveyor

Submitters

Mr J Howarth on behalf of the Upper Clutha Environmental Society

Council Officers

Ms S Gathercole – Reporting Senior Planner
 Ms L Overton – Engineer
 Mr R Denney – Consultant Landscape Architect
 Ms C Evans – Committee Secretary

9. The Council’s 42A report and the applicant’s evidence were pre-circulated in accordance with the requirements of the Act. We pre-read that material and took it as read.
10. Following a question in the course of the hearing, Mr Todd clarified that Ms Devlin, being in the employ of the applicant, was not presenting evidence as an expert witness.

The Application

11. Consent is sought to undertake a subdivision creating 13 residential lots and three access lots. In association, landuse consent is sought to identify 13 residential building platforms of 1000m². The site comprises two terraces separated by a prominent escarpment. Proposed Lots 1-6 and 13 are located on the upper terrace which is at the level of McKay Road

overlooking the Clutha River and surrounding land beyond to the west. Lots 7-12 and the proposed three Rights of Way (ROW) lots are located on the lower terrace at the level of Kane Road. Kane Road is sealed, and acts as the primary access route north from Luggate to the Hawea Flats area, whereas parallel McKay's Road to the east has a metalled surface and a very oblique and potentially dangerous intersection with Kane Road at its northern end.

12. The application is reasonably described in the Assessment of Effects on the Environment (AEE) lodged by the applicant with the application. We do not repeat that material in detail and adopt it, subject to the changes made by the applicant prior to and during the hearing.
13. The applicant amended the landscaping proposed to include, for each of the 13 residential lots, the planting of 1500 kanuka prior to obtaining certification pursuant to Section 224c and consent notices requiring a further 500 kanuka be planted prior to the construction of a dwelling. No amended planting plan was submitted showing the location or nature of this proposed planting.
14. The applicant also put forward two alternatives for access to the upper terrace allotments; an alternate access directly from Kane Road and the option of entering into negotiations with Council to jointly realign the intersection of McKay and Kane Roads. This was in response to concerns raised by Council Engineers with the safety of the current intersection. Mr Todd in his opening submissions suggested that if the realignment were the preferred option we may wish to issue an interim decision or secure this by way of conditions.
15. The applicant clarified that the options for mitigating rockfall from the escarpment as described in the geotechnical report were alternatives, and not all measures were required to be implemented. The applicant further clarified that their intention was to clear loose rocks by machine or hand as necessary.

Submissions

16. The application was publicly notified with submissions closing on 1 December 2016. Two submissions were received, one from NZTA proposing conditions relating to the closure of an access, reverse sensitivity (noise) and a traffic management plan, and one from the Upper Clutha Environmental Society opposing the application in its entirety. At this point we record that the proposed closure of access from proposed Lot 12 to State Highway 8A would be acceptable to the applicant.

Reasons consent is required

17. The site is zoned Rural General in the ODP. We agree with the Applicant and the Council planner that the proposal falls to be considered as a discretionary activity under the Operative Queenstown Lakes District Plan and that resource consent is required for the following reasons:

- A discretionary subdivision activity consent pursuant to Rule 15.2.3.3(vi) for subdivision and location of residential building platforms in the Rural General zone.
- A discretionary activity land use consent pursuant to Rule 5.3.3.3(i)(b) for the identification of 13 residential building platforms of 1000m².

18. We also concur with both the Applicant and the Council Planner that the NES does not apply to this application.

Relevant Statutory Provisions

19. Section 104 sets out the matters to be considered in determining an application for resource consent. Under Section 104B we may grant or refuse consent. Under Section 106 we may refuse subdivision consent or impose conditions relating to the provision of access and effects of natural hazards. If we grant consent we may impose conditions under Sections 108 and 220.

Relevant Regional Policy Statement Provisions

20. Both the Operative and Proposed Regional Policy Statements are relevant to this application.

RPS

21. The AEE lodged with the application referred us to provisions in Chapters 5 and 9 as being relevant as set out in Attachment 1 to the AEE. We concur with the applicant's assessment that these provisions are relevant and consider Ms Gathercole's identification of only Objective 5.4.3 and Policy 9.5.4 as too limited.

PRPS

22. The PRPS was notified on 23 May 2015, and decisions were notified on 1 October 2016. 26 Notices of Appeal have been lodged. In the AEE the applicant identified relevant provisions based on the notified version. Ms Gathercole for the Council and Ms Devlin for the applicant identified Policy 3.2.4 and Objective 5.3 are relevant. Whilst we accept the relevance of these provisions, we consider that there are significantly more objectives and policies which are also of relevance:

- Objective 1.1 Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago. (include recognition of the natural environment) and
- Policy 1.1.1 Integrated Resource Management
- Policy 1.1.2 Economic Wellbeing
- Objective 3.1 The values of Otago's natural resources are recognised, maintained and enhanced.
- Policy 3.1.10 Natural features, landscapes and seascapes
- Policy 3.1.12 Environmental Enhancement

- Policy 4.3.1 Managing Infrastructure activities
- Objective 5.4 Adverse effects of using and enjoying Otago's natural and physical resources are minimised
- Policy 5.4.5 Pest plants and animals
- Policy 5.4.6 Offsetting for indigenous biological diversity

Relevant District Plan Provisions

23. The S42A report and Ms Devlin's evidence referred us to Parts 4, 5, 15 and 22 of the ODP, which we agree are the relevant provisions to consider.
24. The AEE referred us to Chapters 3, 6, 21 and 27 of the PDP, and to the extent that this has weight, we consider these are relevant.

The existing environment

25. The site is sufficiently described in Section 2.0 of the AEE and we adopt this description. One feature of the existing environment which however exerted considerable significance in terms of assessing this application is the substantial escarpment extending along the eastern side of the Clutha River (and classified as an ONF). This escarpment and the elevated terrace above it extends for a considerable distance both above and below the application site, and is a dominant physical feature of the area.

Permitted baseline

26. Ms Gathercole set out in her 42A report the range of activities that are permitted in the Rural General zone and we adopt that list. In response to the Council's evidence, and concerns about the visual impacts of boundary fencing following subdivision, Ms Devlin particularly drew attention to the ability to erect fences less than 2m in height as a permitted activity. In the event we did not consider this to be a determinative factor in our assessment of this application.

Legal Submissions and Evidence

Council Planner

27. Sarah Gathercole, Council Senior Planner prepared a report pursuant to Section 42A containing a landscape report and an engineering report upon which it was based. She listed the following actual and potential effects on the environment as relevant:
- Effects on rural character
 - Landscape and visual amenity effects
 - Cumulative effects
 - Access and traffic
 - Reverse Sensitivity
 - Natural Hazards

- Earthworks
- Service

28. In her assessment, Ms Gathercole considered that the adverse effects on rural character, landscape and visual amenity, cumulative effects and effects relating to traffic and access would be more than minor. In her view the proposal was contrary to the objectives and policies of the ODP and PDP.

Council Engineer

29. Lyn Overton, Council Engineer, prepared a report which generally recommended any engineering related issues could be dealt with by conditions. However, it included a quote from Council's Traffic Engineers in relation to McKay Road which Ms Overton appears to have adopted. It recommends an upgrade the intersection and of Kane and McKay Roads to achieve sight distances and sealing of parts of McKay Road. Ms Overton then recommends that an appropriate condition can be imposed to achieve this.

Council Landscape

30. Marion Read, Consultant Landscape Architect, prepared a report on the landscape aspects of the proposal. She advises that the top terrace is within a VAL and the escarpment and remainder of the terrace are within an ONF. Dr Read was unable to attend the hearing. Mr Richard Denney, Consultant Landscape Architect, attended after confirming that he was in general agreement with Dr Read's report. While we understand the circumstances of Ms Read's unavailability, we feel obliged to record at this point, without any disrespect to Mr Denney, that it is not ideal for an expert witness to be placed in a position of having to answer questions on a report that that they did not personally prepare.

31. Dr Read considered that the introduction of a row of seven residences along the top of a prominent terrace escarpment (Lots 1-6 and 13) would have an adverse and significant effect on the landscape, and an adverse and moderate effect on the visual amenity enjoyed in the vicinity. She considers that the landscape's ability to absorb development is limited to two platforms only¹.

32. The development on the lower terrace which introduces a row of six residences within an Outstanding Natural Feature (ONF) would in Dr Read's opinion have a significant and adverse effect on the natural character and visual coherence of the landscape.

33. In response to Dr Read's report, the applicant revised the proposed Landscape Management Plan to include significant amounts of kanuka planting as well as stressing the removal of all wilding pines. Mr Denney expressed concerns with the proposed additional planting which in his view sounded like a lot, but given the size of the allotments concerned, may not provide adequate screening effects. In his view without details of where the kanuka would be planted it was not possible to assess the effects.

¹ Read Landscapes, 27 January 2017, paragraph 6.2

Legal Submissions

34. Graeme Todd presented legal submissions for the applicant stressing the importance of not ignoring the grandeur of the landscape and ensuring consideration was given to the wider environment rather than just focussing on the site. He pointed us to Mr Skelton's evidence that the full development of 13 dwellings would only be visible from 1 or 2 locations. Mr Todd submitted that if the consent was not granted it was likely that dairy farming would occur on the upper terrace. He discussed the options for the intersection of McKay and Kane Road and the option of an interim decision if we deemed that discussions with Council were required. Mr Todd alerted us to the current status of the PRPS with appeals currently being mediated and hearings on unresolved appeals set down for June/July 2017. Finally, Mr Todd directed us to the recently planted kanuka which he advised had taken well.

Applicant Director

35. Alan Dippie is a director of the development company. He advised that the site was originally purchased for its quarrying potential and having achieved that, he was seeking uses for the remainder of the site. In his view the proposal is a win-win situation for the environment with the removal of the wilding pines. He advised that the wilding is occurring from a shelterbelt across Kane Road and that ongoing management would be required to restrict further spread. Mr Dippie recommended we view the 'Ferguson house' on the opposite side of the escarpment to see how it was barely visible.

Applicant Development Manager

36. Alison Devlin is the Development Manager for the applicant company. She considered that the proposed subdivision is consistent with the relevant objectives and policies and promotes sustainable management of the land as per the purpose and principles of the Act.

Applicant Landscape

37. Mr Steve Skelton provided landscape evidence for the applicant. He considered that with the revised landscape management plan the development as a whole would be well screened and absorbed visually such that it would have a low adverse effect on the open character of the ONF and on the visual amenity of the surrounding landscape. He considered that the arcadian pastoral character will experience very low adverse effects. Mr Skelton commented that while the proposal will present adverse effects on the landscape's open character and will introduce a level of domestication not currently present within the landscape, these effects will be well contained within a frame of natural character which will be enhanced significantly by the landscape management plan. He concludes that overall the provisions for protection, enhancement and management of the site's natural values will mitigate the potential adverse effects on the landscape's open character.

Applicant Engineer

38. Matthew Suddaby advised that all engineering matters could be dealt with by conditions. He considered that sealing McKay Road was unreasonable and recommended 'right out and 'left in' only would resolve the concerns with the safety of the intersection. He was supportive of alternative options where they were cost effective.

Submitter

39. Mr Howarth, representing the Upper Clutha Environmental Society, stated that in the Society's view that the applicant had not meaningfully avoided, remedied or mitigated adverse effects. Mr Howarth drew our attention to the additional domestication that would be associated with each of the 13 residential dwellings. Mr Howarth accepted that the removal of conifers and the establishment of kanuka would be positive, but the positive effects of these enhancement proposals are far outweighed by the adverse effects on the landscape values that would occur if the subdivision proposal proceeds. Mr Howarth drew our attention to the viewpoint off the Newcastle Track from which it was likely all the residences would be visible.

Effects Assessment

40. In most areas the applicant, the Council and the submitter were in agreement and we do not address those matters further other than to record that we agree with these assessments. The areas of contention at the hearing were:

- Landscape effects on rural character, natural character and visual amenity;
- The positive effects from the removal of wilding pines and planting of kanuka; and
- The intersection of Kane and McKay Roads and the sealing of McKay Road.

41. During the hearing there was some discussion in relation to the rockfall hazard and whether the geotechnical report² required measures which were not being volunteered such as relocation of building platforms and the retention of trees. It has since been clarified that the report writer intended only one measure to be carried out – in this case the removal of loose rocks – and that this would adequately mitigate any hazard effects. In the absence of any evidence to the contrary we accept this view and do not consider this matter further.

Landscape

42. We viewed the site from various locations including the viewpoint off the Newcastle Track. We concur with Mr Howarth that most or all of the dwellings will be visible from here. However we also acknowledge the point made by Mr Todd that this path is not a commonly used viewpoint, and this limits the significance of views from this location. On balance we prefer the evidence of Dr Read over that of Mr Skelton. In our opinion the dwellings on the top terrace will be visible as a linear row from the wider area including in a direct line from Shortcut Road which is the primary route for traffic out of Wanaka towards Christchurch. Within that vista towards the Clutha river terraces there is very little development visible and the seven dwellings will be a departure from the relatively open and clearly legible natural landforms. In coming to this conclusion, we took into consideration the point made by Mr Todd in his opening submissions that we should focus on the 'big picture' and that it is easy when assessing a consent to only look at the site itself. In this context and in views from

² Geosolve Ref: 160563, 21 September 2016, paragraph 6.0

Shortcut Road the wider escarpment is generally devoid of green vegetation with the subject site being the exception. The pine plantation on the upper terrace and the wilding pines on the escarpment are a feature of this site distinguishing it from the escarpment further to the north.

43. During the hearing we put the question to Mr Skelton that if the pines were not currently in situ, would he would consider the proposed development to be appropriately sited and adequately mitigated. He agreed that it was largely due to the presence of the existing pine trees that this site was able to absorb the development. We agree with Mr Skelton on this point and if the site had been more open, we can confirm quite categorically that we would consider the proposed development would have very significant adverse effects and we would decline the application.
44. The question that remains for us to consider is whether this 'lucky coincidence' of a site partially covered in wilding pines is a reason to grant consent for 13 dwellings in this location, and we will consider this further shortly.
45. There was some discussion about the placement of kanuka in close proximity to the dwellings and the associated fire risk, and also of the reality of planting in front of the upper terrace dwellings and obstructing views. All parties agreed that any planting should be in accordance with the NZ Fire Service recommendations which we were advised by both Ms Overton and Ms Devlin were to maintain a 10m separation distance from dwellings. All parties also agreed that planting in front of the dwellings on Lots 1-6 and 13 was unlikely to occur as it would detract significantly from the views afforded over the Upper Clutha landscape (albeit that the river would not be visible from the dwellings themselves).

Removal of Wilding Pines and planting of Kanuka

46. All parties agreed that there would be positive effects from the removal of the wilding pines and planting of kanuka. None of the landscape architects were able to advise of the 'natural character' in this location and it remains unclear whether prior to domestic farming activities the landscape would have been dominated by kanuka forest. We observed on our site visits that kanuka was well established in the lower river delta and on the opposite bank, but that the majority of the terraces and escarpments were devoid of trees, sustaining only rough pasture.
47. Mr Dippie, Mr Skelton and Mr Denney all confirmed that the establishment of kanuka would require irrigation for the first three years or so, but after that would require little maintenance.
48. It was not entirely clear to us how the wilding pine removal on the escarpment would occur and we noted that the future owner of Lot 13 would be responsible for the management of the majority of the works in this regard. Mr Dippie advised that his company proposed to retain ownership of that allotment. He indicated he would be happy to have a management plan required in this regard, and included in the conditions of consent. We accept Mr

Dippie's experience in this area and accept that the pine removal is feasible, and ongoing maintenance are realistic proposition subject to this arrangement.

Intersection of Kane and McKay Roads and sealing of McKay Road

49. Ms Overton, Council's Engineer, raised concerns about the safety and efficiency of the intersection between McKay and Kane Road. In response Mr Matthew Suddaby, Surveyor for the applicant, proposed the option of only 'right out' and 'left in' due to the restricted sight distances and the tight turn in the other direction. Mr Suddaby also proposed the option of an alternate access for the dwellings on the top terrace which would avoid McKay Road altogether. A third option was proffered at the hearing being that the applicant and Council could explore a joint venture to upgrade the intersection of McKay and Kane Road.
50. All parties present considered that these options were all appropriate solutions, with consensus that an upgrade of the intersection would have wider community benefits and would be the preferable option. It would however require agreement as to cost sharing arrangements, and may be outside the scope of the current application given the ownership by the Department of Conservation of the small parcel of land adjacent to the corner where such works would be required.
51. Ms Overton also sought to have McKay Road sealed by the applicant to mitigate the adverse effects of the additional vehicle movements. Mr Suddaby opined that the expense would not be justified at a cost of at least \$300,000 for an increase of 40-60 vehicles/day. He pointed out that the current metalled alignment was not located in the roading corridor and that if the road were to be sealed it should logically also be moved. We were advised that the current traffic on the road is around 200 vehicles per day. We concur with Mr Suddaby that the increase in traffic resulting from the additional access for seven dwellings does not justify sealing the road.

Overall Consideration of the Proposal on the Environment

52. We consider that the adverse effects arising from a modest increase in traffic and use of McKay Road can be mitigated.
53. We can see that both the upper and the lower terraces have the potential to absorb some development. However, we are not convinced that the *scale* of the development proposed is appropriate in this location.
54. We accept that the setback of the seven dwellings on the upper terrace from McKay Road combined with the proposed mounding and the suitably located kanuka planting means that the visual effects when viewing the proposal from the east would be no more than minor. The proposed dwellings would also not be visible from Kane Road.
55. There would be limited loss of productive land, which in its current state however is somewhat desolate and infested with weeds and rabbits. However the retention of the

larger block in one title (proposed Lot 13) would mean the majority of the site which can potentially be used productively remains available. Ms Devlin and Mr Todd stressed that in the event the proposal was not granted a likely alternative use for the site would be dairy farming with associated pivot irrigation resulting in a 'greening' of the site. This would be largely be a permitted activity.

56. When viewing the upper terrace development from the west, and particularly from Shortcut Road, we consider it would appear incongruent with the surroundings, and particularly the prominent escarpment which is largely undeveloped, and to the north is also largely clear of trees and other vegetation except grasses. We accept that the application site currently is different from adjacent sites due to being partly dominated by pine trees, both wilding and plantation.
57. The lower terrace is generally not visible in distant views and the effects relate to the views experienced from Kane Road. Even with expansive planting, the presence of three driveways and letterboxes combined with glimpses of the dwellings and curtilage will signify a significant departure from the otherwise generally undeveloped natural environment.
58. There is a neighbouring dwelling located across Kane Road to the west of the site. This neighbour would be affected the changes to the lower portion of the site. The visual amenity and rural character would not immediately change significantly from their site as they are mostly experienced from Kane Road. The adverse effects on this party would relate to their use of the Kane Road and would be similar to other frequent users.
59. We were advised by Mr Dippie and Mr Todd that the removal of the pines would not occur other than as environmental compensation to mitigate effects of an activity. We accept that this is likely the case. We also accept their point that the wilding pines will continue to spread without management. However, we are also conscious that the removal of the pines can occur at any time in the future, be it that it becomes a larger job as they spread. In this context the presence of the pines can be regarded as temporary in nature. The subdivision of the allotment creating 13 allotments with residential building platforms is creating a permanent change to the use of the land.
60. Whilst we accept the removal of the pines as a significant positive environmental outcome, we do not consider it is sufficient to compensate for the adverse effects of the development as sought. The addition of no less than 13 dwellings to the site would result in visual impacts and a change to rural character which would be more than minor.
61. As a final comment however, we record here that we consider that a well designed development with appropriate mitigation could be absorbed by the receiving environment. From our assessment the upper terrace would be able to absorb the visual impacts of up to two dwellings, and that the lower terrace could also absorb up to two dwellings with one sensitively designed access off Kane Road. We consider it is useful to make this observation, although we also acknowledge that this falls well short of the scope of development sought through the application.

Objectives and Policies

Operative District Plan

62. Part 4, 4.1.4 Objective 1 seeks the protection and enhancement of indigenous ecosystem function and also the protection of outstanding natural features and natural landscapes. We were not presented with any evidence that kanuka formed part of the natural environment and indigenous ecosystem. In our view the proposal is therefore neutral in terms of this objective in relation to the proposed planting. Associated Policies 1.1 and 1.4 encourage the long term protection of geological and geomorphological features. The most legible and important feature is the escarpment bound by flat terraces both at the top and bottom. The scale of the feature means that we do not consider that the proposal will have any significant effect on 'reading' this feature. We accept that the existing pine tree vegetation detracts from this legibility, as will dense kanuka planting. The removal of loose rocks to reduce the hazard of rockfall will take away from the naturalness of the feature somewhat, but we understand that this will be very limited in extent and accept that again the scale of the feature means it will be insignificant. Policy 1.5 seeks to avoid the establishment, design, management and location of introduced vegetation with the potential to spread. The proposal would assist in achieving this policy by removing the wilding pines.
63. Part 4, Objective 4.2.5 seeks that any subdivision, use and development is undertaken in a manner which avoids, remedies and mitigates adverse effects on landscape and visual amenity values. Policy 1 encourages development to occur in those areas with greater potential to absorb change. We accept that this site has some potential to absorb development; however the extent of this proposal overwhelms any mitigation proposed or possible. Policy 2(a) deals with maintaining the openness of ONFs which currently have an open character. We understand that in this context openness refers to the lack of built form rather than a lack of vegetation. The introduction of 13 dwellings would not maintain the openness of the ONF.
64. Policy 4 relates to Visual Amenity Landscapes (VAL) and is applicable to the top terrace and seeks to avoid, remedy or mitigate the adverse effects on VALs which are highly visible from public places and visible from roads; and also to mitigate the loss of or enhance the natural character by appropriate planting and landscaping. The scale of the development proposed on the upper terrace would overwhelm the natural character of the VAL, particularly as it is viewed in the context of the adjacent Outstanding Natural Feature of the escarpment.
65. Policy 5 relates to Outstanding Natural Features (ONF) and reads:

5. Outstanding Natural Features

To avoid subdivision and/or development on and in the vicinity of distinctive landforms and landscape features, including:

- (a) in Wakatipu; the Kawarau, Arrow and Shotover Gorges; Peninsula, Queenstown, Ferry, Morven and Slope hills; Lake Hayes; Hillocks; Camp Hill; Mt Alfred; Pig, Pigeon and Tree Islands;

- unless the subdivision and/or development will not result in adverse effects which will be more than minor on:

- (i) Landscape values and natural character; and
- (ii) Visual amenity values

- recognising and providing for:

- (iii) The desirability of ensuring that buildings and structures and associated roading plans and boundary developments have a visual impact which will be no more than minor in the context of the outstanding natural feature, that is, the building etc is reasonably difficult to see;
- (iv) The need to avoid further cumulative deterioration of the outstanding natural features;
- (v) The importance of protecting the naturalness and enhancing the amenity values of views from public places and public roads;
- (vi) The essential importance in this area of protecting and enhancing the naturalness of the landscape.

This policy is in our view key in assessing this development. We consider the Clutha terrace and escarpment to be a distinctive landscape feature and as set out earlier the adverse effects to be more than minor. The development on the lower terrace will be visible in glimpses and attention will be drawn to it as a whole by the consecutive driveways. We do not consider that it will meet the test of being reasonably difficult to see (iii above). We also consider that the proposal will contribute to deterioration of the ONF (iv above), diminish the naturalness and reduce amenity values of views (v and vi above).

The proposal is in our assessment contrary to Policy 5.

- 66. Policy 8 seeks to avoid cumulative degradation resulting in densities of subdivision and development where the benefits of further planting and building are outweighed by adverse effects on landscape values and over domestication of the landscape. This proposal exceeds the threshold of development that is able to be absorbed by the receiving environment, is not sympathetic to the area, and we consider it would be contrary to this policy. Policy 9 relates to structures and locating them to preserve the visual coherence of ONFs and VALs. We acknowledge the effort that has been put into the proposal by the applicant and his advisors, including the use of appropriate colours, materials and height controls to limit the visibility of the dwellings. However, we consider the location of seven dwellings on the upper terrace to be in a prominent location on top of the escarpment and a strong reliance on vegetative screening is open to question as it would block significant views from the

proposed building platforms. Although an exposed site, it is readily apparent from our site visit that the expansive views available to the west from the upper terrace sites would almost certainly be a key 'selling point'.

67. Policy 16 seeks to minimise the adverse effects of wilding trees. The proposal assists in achieving this policy and is likely to be instrumental in achieving a significant reduction in wildings on this ONF.
68. Part 5, 5.2 Objective 1 seeks to protect the character and landscape value of the rural area, with Policy 1.7 aiming to preserve the visual coherence of the landscape, and Policy 1.8 aiming to avoid the location of structures in prominent locations. We find that the proposed dwellings on the upper terrace along a prominent escarpment edge would create a discernible linear pattern of development, and that the entire development exceeds the potential of the site as a whole to absorb the scale of the change proposed through this application.
69. Part 5, 5.2 Objective 2 deals with the retention of life supporting soils. We acknowledge that this is somewhat marginal land agriculturally (at least in its present state) and consider the proposal is neutral in relation to this objective.
70. Part 5, 5.2 Objective 3 relates to rural amenity. We consider that the rural amenity of the area in terms of affecting rural land practices and uses will not change as a result of this proposal with sufficient distance between this proposal and neighbouring properties to mitigate any reverse sensitivity issues. The proposal is consistent with this objective.
71. The proposal is largely consistent with the objectives and policies in Part 15, Subdivision as they relate to ensuring the subdivision is appropriately serviced. Objective 5 seeks to maintain or enhance the amenities of the built environment through the subdivision and development process. Policy 5.2 refers to not adversely affecting landscape or visual qualities. In light of our findings we consider the proposal contrary to this policy. Policy 5.5 relates to the safe and efficient functioning of services and roads. We consider that the intersection of Kane and McKay Road is currently unsuitable in this regard, however we accept that there are a number of possible solutions to this, and therefore find the proposal neutral in this regard.
72. We record that we find the proposal is either generally consistent with or conditions can be imposed to ensure it is generally consistent with the Objectives and Policies in Part 22, Earthworks.

Proposed District Plan

73. Chapter 6, Landscape, Objective 6.3.1 requires protection of the rural landscapes. Of relevance Policies 6.3.1.3 & 4 read:

- 6.3.1.3** That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision and development is inappropriate in almost all locations, meaning successful applications will be exceptional cases.
- 6.3.1.4** That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.

The policy provisions of the PDP would in their current form impose a more severe test on those under the ODP. However we can only give minimal weight to the provisions of the PDP because no decisions have yet been released on any submissions, including those on the relevant landscape provisions. We however acknowledge the Councils statement during the hearing that the boundaries of the ONF in this area have not been subject to challenge.

To the limited extent however that the PDP has weight, we conclude that the scale of development proposed through this application would be contrary to its objectives and policies.

RPS and PRPS

74. The Regional Policy Statements (Operative and Proposed) are given effect to through the District Plan and Proposed District Plan. Suffice to record here that we have considered the objectives and policies as set out earlier and conclude that the conclusions reached in terms of the District Plans are applicable also to the Regional Plans. Although expressed in much more general terms, the policy framework in these plans does not in our view support a grant of consent for development on the scale proposed.

Other matters

75. We consider that precedent and plan confidence are relevant considerations for this proposal. This site is relatively unique in terms of its location across the VAL/ONF landscapes. However the proliferation of pest vegetation is unfortunately a common occurrence in the district. We do have concerns that using the removal of the pines on the site to mitigate the adverse effects of development could become a common theme which discourages landowners to manage pest species on their sites. In that sense we consider that the granting of this consent could set an expectation that removal of unwanted vegetation is only done in exchange for 'reward'. This is equally a plan confidence concern. The community is entitled to expect that the outcomes sought by the District Plan will be achieved. Replacing wilding pines with kanuka and 13 dwellings is not an anticipated outcome in the VAL/ONF.

Overall Assessment

76. We have concluded that the proposal is contrary to key objectives and policies relating to landscape and character. Whilst we see significant merit in the removal of wilding pines, we do not consider that this is sufficient to outweigh the adverse impacts that would be

associated with the scale of the development proposed. The adverse effects of the proposal on the ONF are more than minor and cannot be adequately mitigated. For these reasons the application is DECLINED.

22 March 2017

A handwritten signature in black ink, appearing to read 'Wendy Baker', with a stylized, cursive script.

Wendy Baker

A handwritten signature in black ink, appearing to read 'Robert Nixon', with a stylized, cursive script.

Robert Nixon