



**QUEENSTOWN LAKES DISTRICT COUNCIL
HEARINGS PANEL TO CONSIDER PLAN CHANGE 53 COMPRISING**

**Commissioner David Whitney (Chair)
Commissioner David Mead
Councillor Scott Stevens**

**REPORT & RECOMMENDATIONS OF HEARINGS PANEL
PLAN CHANGE 53 : NORTHLAKE
DATED : 6 SEPTEMBER 2018**

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Abbreviations

District Plan/Operative District Plan – Queenstown Lakes Operative District Plan

NSZ – Northlake Special Zone

ONF – Outstanding Natural Feature

ONL – Outstanding Natural Landscape

PC53/Plan Change 53 – Proposed Plan Change 53

Proposed District Plan – Queenstown Lakes Proposed District Plan

QLDC/the Council – Queenstown Lakes District Council

RMA/the Act – Resource Management Act 1991

1.0 THE HEARING

The hearing on proposed Plan Change 53 and the submissions (including further submissions) thereto took place at Edgewater at Wanaka on Tuesday 5 June 2018 and Wednesday 6 June 2018. A site visit was undertaken by the Hearings Panel with Mr Barr on 5 June 2018 prior to the commencement of the hearing.

2.0 APPEARANCES & INFORMATION SIGHTED

Requestor:

For Northlake Investments Limited.

Mr Warwick Goldsmith, Barrister
Mr Andy Carr, Traffic Engineer, Carriageway Consulting Limited
Mr Marc Bretherton, Development Manager, Northlake Investments Limited
Mr Alex Todd, Registered Surveyor, Paterson Pitts Group
Mr Paddy Baxter, Landscape Architect, Baxter Design Group Limited.
Mr John Polkinghorne, Retail Economist, RCG Limited
Mr John Edmonds, Planning Consultant, John Edmonds & Associates Limited

Submitters:

For Willowridge Developments Limited and Central Land Holdings Limited.

Ms Jayne Macdonald, Counsel, Macalister Todd Phillips
Ms Alison Devlin, General Manager for Property and Planning, Willowridge Developments Limited
Mr Michael Copeland, Consulting Economist, Brown, Copeland and Company
Mr Carey Vivian, Planning Consultant, Vivian and Espie Limited

For Exclusive Developments Limited.

Mr Michael Nidd, Counsel, Farry and Co Law (written submission of Mr Nidd presented *in absentia* by Ms Brown).
Ms Lisa Brown, Representative, Exclusive Developments Limited
Mr Lee Brown, Director, Exclusive Developments Limited

Officers & Advisors in Attendance:

Mr Craig Barr, Senior Planner, Queenstown Lakes District Council. Mr Barr prepared a section 42A report on Plan Change 53 and the submissions including further submissions received thereto. Mr Barr was present throughout the hearing on 5 June 2018 and 6 June 2018 and he subsequently provided written notes at the request of the Hearings Panel that recorded the matters that he had discussed following the presentation of submissions and evidence by the requestor and submitters. These written notes were dated 8 June 2018.

Mr Dave Smith, Traffic Engineer, Abley Transportation Consultants Limited. Mr Smith prepared a review of the requestors transportation assessment report which informed the section 42A report. Mr Smith was present at the hearing on 5 June 2018 and 6 June 2018.

Ms Rebecca Skidmore, Urban Designer, R Skidmore Urban Design Limited. Ms Skidmore prepared a report containing peer review comments on urban design, landscape and visual effects of the proposal which informed the section 42A report. Ms Skidmore was present throughout the hearing on 5 June 2018 and 6 June 2018.

Ms Natalie Hampson, Retail Economist, Market Economics Limited. Ms Hampson prepared a review of the proposal from a retail economics perspective which informed the section 42A report. Ms Hampson was present throughout the hearing on 5 June 2018 and 6 June 2018 and she presented a summary and rebuttal statement dated 6 June 2018.

Mr Adam Vail, Senior Project Engineer, Holmes Consulting LP was not in attendance but was available in the event that the Hearings Panel had any questions of him, which we did not. Mr Vail prepared a review of the requestor's infrastructure assessment which informed the section 42A report.

Ms Charlie Evans and **Ms Hope Marson**, Planning Support, Queenstown Lakes District Council. Ms Evans and Ms Marson provided administrative support to the Hearings Panel and were in attendance throughout the hearing on 5 June 2018 and 6 June 2018.

Additional Material:

As noted above following the adjournment of the hearing on 6 June 2018 Mr Barr, at the Panel's request, provided written notes that recorded his response to matters raised at the hearing, these notes being dated 8 June 2018.

Subsequently Ms Macdonald, for Willowridge Developments Limited and Central Land Holdings Limited, filed a Memorandum dated 13 June 2018 which sought leave to file further submissions on the jurisdictional issue as addressed in Mr Barr's written notes. Such leave was granted in a Minute issued by the Hearings Panel Chair on 14 June 2018; and the Minute confirmed that an opportunity was to be provided for Exclusive Developments Limited (being the other submitter that appeared at the hearing) to also file a further submission on the jurisdictional issue, if it wished to do so. Mr Nidd took this opportunity on behalf of Exclusive Developments Limited, his Memorandum of Submissions being dated 19 June 2018.

Mr Goldsmith made brief closing remarks on 6 June 2018. Mr Goldsmith was also granted leave to file his full closing legal submissions in reply in writing and these were forwarded to the Council on 21 June 2018. At the hearing Mr Edmonds was requested to provide his final suggested amendments to the Plan Change 53 provisions in writing. These did not accompany Mr Goldsmith's closing submissions as they had been overlooked; and Mr Edmonds's final suggested amendments were circulated to the Hearings Panel on 29 June 2018.

3.0 INTRODUCTION

The Northlake Special Zone applies to approximately 219 hectares of land and is located generally to the north of Aubrey Road at Wanaka. The Northlake Special Zone was introduced to the Operative Queenstown Lakes District Plan via Plan Change 45 which became operative on 17 December 2015.

Northlake Investments Limited owns some 104.6499 hectares more or less of land within the Northlake Special Zone. This land is described in the Request Document as being Lots 90 and 2000 DP 510104 and Lot 66 DP 371470 as contained in Computer Freehold Register Identifier 781044 at the Otago Land Registry. The requestor is in the process of developing this land for urban purposes.

Plan Change 53 has been requested by Northlake Investments Limited to amend certain provisions that relate to the Northlake Special Zone in the Operative District Plan. The plan change Request Document as notified that is dated November 2017 indicated that the request involves five components:

- Amend the boundaries of particular Activity Areas to enable more efficient use of urban zoned land, and to provide flexibility to develop a retirement village; and
- Increase the retail floor area restriction to enable a small supermarket to be established; and

- Amend the signage rules to recognise that increased signage is appropriate for commercial buildings in Activity Area D1; and
- Remove the Part 15 subdivision rule relating to Community Facilities, for future administrative certainty; and
- Consequential rule changes that address matters raised in expert reports.

The requested plan change, as publicly notified, confirmed that the fifth component promoted changes to several rules to address recommendations made in Mr Baxter's report (contained in the Request Document) and in response to matters raised by Council officers. The changes to specific rules were summarised in the Request Document, as notified, as follows:

- Amend the Prohibited Activity rule to clarify that "fish and meat processing" can occur within a food retail premises;
- Amending the Setbacks from Roads rule, so that buildings within Activity Area D1 to the north of Mt Burke Drive are setback a minimum of 7.0m;
- Amending the Access rule to restrict vehicle access from Activity Area D1 directly onto Outlet Road;
- Amending the Landscaping and Planting rule to ensure that a consistent landscaped edge develops along the western side of Outlet Road; and
- Amending the Building Height rule to limit buildings within 40 metres of Outlet Road that are within that part of Activity Area D1 to the north of Mt Burke Drive to 2 levels.

The relevant provisions of the Operative District Plan that are affected by Plan Change 53 are:

- Part 12 (Special Zones) by amending rules which relate to the Northlake Special Zone.
- Part 15 (Subdivision) by deleting Rule 15.2.16.3.
- Part 18 (Signs) by amending Activity Table 1 (Commercial Areas) and Activity Table 2 (Residential Areas).

4.0 NOTIFICATION AND SUBMISSIONS

Plan Change 53 was notified for submissions on 18 January 2018 and the period for submissions closed on 23 February 2018. A summary of the decisions requested in submissions was publicly notified on 8 March 2018 and the period for further submissions closed on 22 March 2018.

A total of 14 original submissions and 3 further submissions were received as listed in **Appendix 1**. Six of the original submissions were withdrawn. The original submission by **Karen Birkby** was withdrawn on 16 February 2018; by **Greg Ford** on 7 March 2018; by **Kim & Gareth Parry** on 20 March 2018; by **Peter Eastwood** and by **John Patrick**, both on 22 March 2018; and by **Lindsey Turner** and **Andrew Thompson** on 31 May 2018.

The original submission from **Allenby Farms Limited** was received subsequent to the closing date for submissions. At the commencement of the hearing and having taken into account the matters stated in section 37A(1) of the Act we extended the relevant time limit and accepted the late submission of **Allenby Farms Limited**. No party present at the commencement of the hearing objected to us granting such an extension.

Appendix 2 contains a summary of the decisions requested in the submissions that have not been withdrawn and of the corresponding further submissions received.

Our report assesses the points raised by submitters and further submitters and we make recommendations in Sections 8.1-8.8 as to whether these points should be **accepted**, **accepted in part**, or **rejected**.

5.0 DESCRIPTION OF PLAN CHANGE 53

PC 53 as notified sought a number of amendments to the Operative Queenstown Lakes District Plan. It seeks the following amendments:

- **Amend Section 12 (Special Zones) by amending Chapter 12.34 Northlake Special Zone – Rules as follows:**
 - i. Amend Rule 12.34.2.6i to provide an exception for fish or meat processing as a prohibited activity if ancillary to any retail activity or restaurant.
 - ii. Amend Rule 12.34.4.1ii(b) to provide for a minimum setback in that part of Activity Area D1 that adjoins Outlet Road north of Mt Burke Drive, where the minimum setback from Outlet Road shall be 7 metres.
 - iii. Amend Rule 12.34.4.1viii to specify that within Activity Area D1 no residential unit shall have direct access to Outlet Road.
 - iv. Amend Rule 12.34.4.1x(d) to confirm that the rule shall not apply to Activity Area D1 to the west of Outlet Road where roadside landscaping within 3.5 metres of Outlet Road shall consist of a post and rail timber fence located on the property boundary and a Grisilinea hedge located immediately behind the post and rail fence, maintained to a minimum height of 1.5 metres.
 - v. Amend Rule 12.34.4.2iv(a) to stipulate that buildings within 40 metres of Outlet Road north of Mt Burke Drive shall be no more than 2 levels.
 - vi. Amend Rule 12.23.4.2viii(b) to permit one retail activity with a maximum gross floor area of 1250m² to be an exception to the rule which prescribes that no retail activity shall have a gross area exceeding 200m²; and to amend Rule 12.23.4.2viii(c) to provide for the total amount of retail floor space within the Northlake Special Zone to not exceed 2500m² (rather than 1000m²).
 - vii. Amend the Northlake Structure Plan to expand the Activity Area D1 by 4.2 hectares incorporating parts of the western slopes of Activity Area B3, a small area of Activity Area E1 and that part of Activity Area C2 that adjoins Outlet Road; and to slightly adjust other boundaries such that a small area of Activity Area E1 becomes Activity Area B2, 2,460m² (in aggregate) of Activity Area C1 becomes Activity Area B2 and 7571m² of Activity Area C1 becomes Activity Area B3.
- **Amend Section 15 Subdivision, Development & Financial Contributions by deleting Rule 15.2.16.3 Zone Subdivision Standard – Northlake Special Zone – Community Facilities.**
- **Amend Section 18 Signs to include Northlake Special Zone – Activity Area D1 with the Corner Shopping Centre Zone in Activity Table 1 (Commercial Areas); and amending Activity Table 2 (Residential Areas) to confirm that the reference to Northlake in Activity Table 2 does not apply to the Activity Area D1 at Northlake.**

The NSZ provisions as summarised above were amended by the requestor in response to matters raised in submissions, in response to the section 42A report and in response to matters raised during the course of the hearing by various parties.

The outcome of this process is the suite of amended provisions prepared by Mr Edmonds that was circulated to the Hearings Panel on 29 June 2018.

The Hearings Panel notes that these amendments refine the NSZ Rules as included in Plan Change 53 as notified; but do not change these rules in substance.

Mr Edmonds also provided suggested amendments to policies as presented in Chapter 12.33 being Northlake Special Zone – Issues, Objectives and Policies. These amendments related to matters initially raised in Mr Barr’s section 42A report and were discussed at the hearing albeit that they are not as comprehensive as the provisions suggested by Mr Barr. The Hearings Panel notes that Plan Change 53, as notified, proposed no change to the policies which relate to the Northlake Special Zone.

The Hearings Panel confirms that it has considered Plan Change 53 on the basis of the amended provisions as presented by Mr Edmonds at the hearing; and as provided in writing by him on 29 June 2018.

The Hearings Panel has taken the opportunity to study the Request Document entitled “Private Plan Change Request Northlake Special Zone Outlet Road, Wanaka” dated November 2018 that contained a section 32 assessment relating to PC 53; and the various technical reports and other documents which accompanied the Request Document. These documents are presented as Attachments to the Request Document and included the following:

Attachment A : Computer Freehold Registers

Attachment B : Landscape and Urban Design Assessment (Baxter Design Group Ltd)

Attachment C : Infrastructure Report (Paterson Pitts Group)

Attachment D : Transportation Assessment (Carriageway Consulting Limited)

Attachment E : Assessment of Retail Economic Effects (RCG Ltd)

Attachment F : Structure Plan

The Request Document including the Attachments can be viewed on the Council’s website.

Further technical reports were provided by the Requestor in response to a request for additional information from Mr Barr dated 12 March 2018. These documents were presented in Appendix 6 to Mr Barr’s section 42A report and included the following:

- Correspondence from John Edmonds & Associates dated 22 March 2018.
- Northlake Stages 2/3 – Flow Rates and Capacities.
- GeoSolve Ltd Geotechnical Report dated August 2017 (prepared for RM 171190).
- Updated Northlake Master Plan dated 22 March 2018 prepared by Paterson Pitts Group.
- Urban Design Assessment of Amended Signage Rules – Activity Area D1 dated 22 March 2018 prepared by Baxter Design Group Ltd.

On 30 May 2018 Mr Goldsmith filed a Memorandum accompanied by the following two documents:

- Northlake Investments Limited Memo : Response to QLDC s42A report on PC 53 dated 16 May 2018 prepared by Paterson Pitts Group.
- Correspondence from Mr Andrew Tipene of the Queenstown Lakes District Council dated 22 May 2018 which confirmed that QLDC Property and Infrastructure are satisfied that Water and Wastewater infrastructure can be provided to support Plan Change 53.

6.0 STATUTORY REQUIREMENTS

Section 73(2) of the Resource Management Act 1991 (the Act) confirms that any person may request a territorial authority to change a district plan, and the district plan may be changed in the manner set out Schedule 1 to the Act. Provisions specific to requests for plan changes are detailed in Part 2 of Schedule 1 to the Act.

Clause 10 of Schedule 1 requires that a local authority give a decision on the provisions and matters raised in submissions, and the reasons for accepting or rejecting the submissions, although it is not required to give a decision that addresses each submission individually. The decision may also include making any consequential amendments necessary to the proposed plan change arising from submissions.

Section 75 of the Act prescribes the contents of district plans. Subsection (3) states:

(3) a district plan must give effect to-

- (a) any national policy statement; and*
- (b) any New Zealand coastal policy statement; and*
- (ba) a national planning standard; and*
- (c) any regional policy statement.*

Subsection (4) goes on to state that a district plan must not be inconsistent with a water conservation order or a regional plan for any regional function.

Section 74 requires that a territorial authority shall prepare and change its district plan in accordance with its functions under section 31; the provisions of Part 2; a direction given under section 25A(2); its obligation to have particular regard to an evaluation report prepared in accordance with section 32; a national policy statement, a New Zealand coastal policy statement and a national planning standard; and any regulations.

Section 74(2), (2A) and (3) state as follows:

(2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—

(a) Any—

- (i) Proposed regional policy statement; or*
- (ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*

(b) Any—

- (i) Management plans and strategies prepared under other Acts; and*
- (ii) [Repealed]*
- (iia) Relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and*
- (iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—*

to the extent that their content has a bearing on resource management issues of the district; and

(c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.

(emphasis added by underlining)

The Hearings Panel is only empowered to make a recommendation to the territorial authority in terms of the limits of its delegated authority under section 34A (1) of the Act.

7.0 THE EVIDENCE

7.1 Submissions and Evidence for Requestor

The expert evidence had been precirculated and was taken as read.

Mr Warwick Goldsmith

Mr Goldsmith presented legal submissions. Overall, he considered that the plan change was straightforward and did not raise any significant policy or environment effects issues.

Mr Goldsmith observed that the plan change had a number of components to it, but the main issue in contention related to the supermarket aspect. He noted that the Council staff supported the retail elements of the plan change, subject to some amendments, while the main opposition to the change come from submitters who were landowners in the Wanaka area and who had a strong trade competitor element to them. As a result, he considered that the Hearings Panel should place limited weight on the submitters' evidence and submissions. Mr Goldsmith stopped short of saying that the Hearings Panel should disregard (or even strike out) their submissions.

Mr Goldsmith did not consider that the plan change needed to amend any of the existing policies in the Northlake Special Zone (NSZ), such as policies 1.7 and 2.6. For reference purposes, these policies state:

Policy 1.7

To provide for small scale neighbourhood retail activities to serve the needs of the local community within Activity Area D1 and to avoid visitor accommodation, commercial, retail and community activities and retirement villages within Activity Areas other than Activity Area D1.

Policy 2.6

To enable visitor accommodation, commercial, retail and community activities and retirement villages within Activity Area D1 including limited areas of small scale neighbourhood retail to service some daily needs of the local community, while maintaining compatibility with residential amenity and avoiding retail development of a scale that would undermine the Wanaka Town Centre and the commercial core of the Three Parks Special Zone.

Mr Goldsmith observed that the only substantial constraint in these policies on the nature and extent of retail activities in the NSZ was that retail should not undermine Wanaka Town Centre and Three Parks. There was no evidence that this would eventuate. Reference in the policies to small scale retail that met the needs of local residents were of an enabling

tone; they were not restrictive policies to the effect that retail could only be of a small scale or only serve local residents. A small supermarket that may end up drawing its customers from across Wanaka (not just the local area) was not ruled out by the policies, so long as the Wanaka Town Centre and Three Parks were not undermined. Issues of building scale and fit with a village feel for the area (another interpretation of the term 'small scale retail') could be addressed through the existing urban design based assessment provisions of the NSZ, as well as the amended rule that would limit the size of the supermarket. It was further proposed by the requestor during the hearing that the supermarket could be restricted to a specific site. Mr Goldsmith suggested that an additional urban design based policy could be added. While he observed that the scope basis for such a change was not clear, the requestor did not strongly object to this.

Mr Goldsmith took issue with the changes proposed by the Council's section 42A report, particularly the proposed new 'non-residential activity' objective [Objective 7] and policies that would replace Policies 1.7 and 2.6; and the proposed inclusion of commercial activities in the amended floorspace rule. Mr Goldsmith was concerned that there was no scope for such changes and that there was no need to amend the objectives and policies in the form proposed. Mr Goldsmith was of the opinion that if the Commission found that adjustments to the existing Policies 1.7 and 2.6 were needed to accommodate the supermarket, then these could be accomplished by some minor changes, such as those set out in the evidence of Mr Edmonds.

Mr Goldsmith's submissions did not directly address the removal of the community facilities subdivisional rule but it is noted that during the course of his submissions and at the hearing a number of resource consents were referred to that had addressed this rule. These consents clarified that the Council had determined that it was not necessary for NSZ subdivision and development to provide for the 20 to 25m lap pool listed in the rule.

Mr Andy Carr

Mr Carr (Traffic Engineer) responded to questions from the Hearings Panel. He stated that he did not consider that Mt Linton Avenue and Northburn Road were likely to attract much extra traffic from potential customers living to the west of the Northlake centre. Even if traffic volumes did increase, traffic speeds would be low. He clarified that there were no traffic engineering reasons to restrict vehicle access to Outlet Road, subject to compliance with standard vehicle crossing requirements albeit that there may be urban design issues. The Council can control construction traffic through the consent process, as well as through a requirement for traffic management plans to be prepared.

Mr Marc Bretherton

Mr Bretherton (Development Manager for the requestor), presented a short statement responding to submitter's evidence. He addressed the issue of whether the supermarket might 'grow' over time. He said that the requestor would accept a rule limiting the supermarket to a specific lot – being Lot 1006. This lot was 4,590m² in area. Taking into account required set backs, car parking and loading areas etc, then the lot could accommodate a 1,250m² building. This was the reason for the floorspace limit.

The Hearings Panel notes that Mr Goldsmith, in his reply, suggested on behalf of the requestor that the supermarket could be limited to being located on either Lot 1005 DP 515015 or Lot 1006 DP 515015.

Mr Alex Todd

Mr Todd (Registered Surveyor) responded to questions from the Hearings Panel. He clarified that the enlarged Activity Area D1 would involve substantial earthworks. The ground level along Outlet Road was, however, at finished ground level.

Mr Paddy Baxter

Mr Baxter (Landscape Architect) responded to questions from the Hearings Panel. He clarified the proposed landscape treatment at the Outlet Road frontage with reference to diagrams in his evidence. These showed a post and rail fence and low hedge on the top of a low bank, set back about 6m from the road edge. This arrangement would mean, along with the other proposed rules relating to building heights and set backs, that the larger buildings possible in Activity Area D1 (as compared to Activity Area C2) would be appropriately screened. Mr Baxter agreed that it would be appropriate to add a policy relating to urban design issues.

Mr John Polkinghorne

Mr Polkinghorne (Retail Economist) presented a supplementary statement, responding to a number of issues raised in the evidence of the submitters. He addressed the issue of size and whether the supermarket could be said to be 'small-scale' in terms of the NSZ policies. He noted that the average size of a supermarket is around 3,000m² gross floor area. In his view the 1,250m² supermarket proposed at Northlake was small in comparison to this average. Mr Polkinghorne did not consider Anderson Heights to be a 'centre' in terms of the retail hierarchy of the District Plan (with the implication that retail activities in this area did not need or warrant a degree of planning 'support'). He then went on to address the potential effects identified by the submitters in terms of impacts on Three Parks. He considered that any impacts were marginal. The potential for the Northlake supermarket to delay or defer a second supermarket at Three Parks was an unlikely effect, given that dual supermarket centres are rare.

Mr Polkinghorne considered, in reference to the district plan's requirement that retail development in Northlake not undermine Three Parks, that there would have to be a substantial negative impact on the viability of Three Parks for this threshold to be reached. There was no evidence that this was likely.

Mr John Edmonds

Mr Edmonds (Planning Consultant) provided a supplementary statement and verbally responded to a number of matters raised by submitters and to questions from the Hearings Panel. He clarified that the proposed amended rules relating to frontage treatment along Outlet Road needed to be altered to reflect the treatment proposed by Mr Baxter. He also pointed out that in addition to the frontage rules, landscaping was a matter that the Council could address when considering resource consents for buildings in Activity Area D1. Mr Edmonds maintained that there was no need for additional policy direction on building design. He pointed to the recent consent for a medical / health centre building in the NSZ where urban design issues had been appropriately addressed by the Council, based on the operative provisions. Mr Edmonds did not support the proposed new Objective 7 and associated policies identified in the section 42A report.

7.2 Submissions and Evidence for Submitters

7.2.1 Willowridge Developments Limited and Central Land Holdings Limited

Ms Jayne Macdonald

Ms Macdonald presented legal submissions for two submitters: Willowridge Developments Limited and Central Land Holdings Limited. Willowridge Developments Ltd is involved in the Three Parks development, while Central Land Holdings Limited owns land in Anderson Heights. The submissions raised three main issues.

Firstly, Ms Macdonald submitted that the proposed rule changes to the NSZ did not give effect to the policy framework of the Operative Plan. In particular Policies 1.7 and 2.6 should be interpreted as placing an emphasis on limiting retail to small scale activities meeting the needs of residents in the Northlake area. The supermarket did not meet these tests.

Secondly, there was no scope to amend the objectives and policies to the extent proposed by the Council's 42A report, which further raised the issue of whether the amended rules were appropriate. The section 42A report supported the rule change provided that the objectives and policies were amended. However if they could not be amended as suggested, then by implication, the rule change was inappropriate.

Finally, Ms Macdonald submitted that there were potential effects on Three Parks and Anderson Heights that extend beyond trade competition effects.

On the last point, Ms Macdonald identified that an underlying concern of the submitters was that the plan change would open the door to a much larger retail centre at Northlake, perhaps achieved through a number of consents. If a larger store was provided for in the NSZ provisions, in clear contradiction to policies referring to small scale retail, then the ability of those policies to restrain further increases in floor area would be significantly diminished. The offer from the applicant to limit to store to a particular site (initially Lot 1005) was acknowledged, but there was plenty of scope through the consent processes to 'get around' such a standard.

Ms Macdonald confirmed that the submitters would support enabling a small grocery type store at Northlake to meet local needs, such as a 300m² store, similar to the controls that apply to the Local Shopping Centre Zone.

Ms Alison Devlin

Ms Devlin (General Manager for Property and Planning, Willowridge Developments Limited) described the Three Parks Special Zone commercial centre and outlined the progress made to date in developing this centre. She was concerned that uncertainty over the demand for retail floorspace in Three Parks due to retail developing in other centres could delay necessary enabling works (such as earthworks and roading). This in turn would frustrate the ability to develop a range of retail and non-retail activities in the centre.

Mr Michael Copeland

Mr Copeland (Consulting Economist) spoke to his evidence. He considered that there were a number of potential effects on Three Parks from the increased floor area proposed by the plan change. The District Plan had established a retail hierarchy for a number of important resource management reasons and in his view it was important that this hierarchy was allowed to 'develop' and get established before changes to it were promoted. He agreed that the rezoning under the Proposed District Plan of the Anderson Heights area as 'Mixed Use' did open the door to much more retail in this area, posing a different and possibly more substantial threat to Three Parks, than Northlake. However the nature of existing development and activities in the Anderson Heights area would reduce this potential effect.

Mr Carey Vivian

Mr Vivian (Planning Consultant) spoke to his evidence. He was of the view that NSZ Policies 1.7 and 2.6 limited retail to smaller scale activities serving the local community; and that Plan Change 53 was clearly stepping away from this outcome. In addition the plan change would undermine Three Parks. He said that the Local Shopping Centre Zone was a relevant benchmark in terms of the scale of retail that was appropriate at the NSZ.

7.2.2 Exclusive Developments Limited

Ms Lisa Brown for Mr Michael Nidd

Ms Brown spoke on behalf of Exclusive Developments Limited. She read out legal submissions prepared by **Mr Nidd** who was unable to attend the hearing. The submitter owns land in the Northlake Special Zone, fronting Outlet Road. The submitter is concerned that the additional retail development and a larger Activity Area D1 will see a number of off-site effects that will adversely impact the submitter's development. This included more traffic on Outlet Road, more stormwater runoff that would cross the submitter's site and

taller and bulkier buildings. Exclusive Developments Limited was not confident that the plan change would appropriately control these effects.

Mr Lee Brown (Director of Exclusive Developments Limited) was also in attendance.

7.3 The Officers Report

Mr Barr's section 42A report dated 3 May 2018 discussed the matters raised by submitters and further submitters to assist us in our consideration of these matters. Mr Barr's section 42A report was informed by the reports of several consultants, such reports being presented in Appendices to Mr Barr's section 42A report.

Mr Barr and several other report authors addressed us following the presentation of evidence and submissions and prior to the adjournment of the hearing to address matters that had been raised by the parties who appeared before us.

Mr Dave Smith

Mr Smith (Traffic Engineer) provided short comments on his review of the traffic assessment. He remained of the view that Outlet Road could easily accommodate the additional traffic; and that no adjustments were needed to the Aubrey Road / Outlet Road intersection. Equally, no changes were needed in the design of Mt Linton Avenue and Northburn Road.

Ms Rebecca Skidmore

Ms Skidmore (Urban Designer) retained the view that trees were an important element of the landscape treatment of the Outlet Road frontage, particularly given the change from Activity Area C2 to Activity Area D1. She was unsure how the proposed 'fence and hedge' rule would work in practice, given that the fence and hedge would need to be placed in a specific position relative to set back from the road edge and on top of a small bank. She supported additional policy guidance on built form outcomes, given the larger area of Activity Area D1 enabled and the provision for the larger retail store.

Ms Natalie Hampson

Ms Hampson (Retail Economist) provided a written statement dated 6 June 2018, updating her assessment of retail effects. She questioned a number of aspects of the evidence presented, but overall remained of the opinion that the plan change would provide some benefits to the community in the northern part of Wanaka, while possibly having some minor 'environmental' impacts on Three Parks.

Mr Craig Barr

Mr Barr (Senior Planner, Queenstown Lakes District Council) updated the Hearings Panel on his analysis of the scope provided for in the submissions for the changes he had recommended in his section 42A report. He was confident that the changes he had made to the policies were in scope. He provided an annotated copy of the proposed changes with each change referenced to a particular submitter. He also referred to a legal opinion that the Proposed District Plan Hearings Panel had received as to the scope to make changes, particularly where submitters had requested changes to rules but not necessarily to the guiding policies.

Mr Barr clarified that a number of the amendments in his track changes version of the plan provisions could now be removed or modified, such as reference to restrictions on vehicle access to Outlet Road applying to residential activities. This should refer to all activities.

Mr Barr remained of the view that the new, non-residential objective and policies were necessary and appropriate amendments. On the issue of whether commercial activities should be included in the floorspace limit, he did acknowledge that this was not a matter that was directly raised in the plan change request, or in submissions, but was a matter that

flowed from the enlarged Activity Area D1, that increased the potential for more, larger commercial type buildings to be developed that may disrupt the village intent.

At the Hearing Panel's request Mr Barr provided written notes of his concluding remarks to us, such notes being dated 8 June 2018.

7.4 Further Legal Submissions by Submitters

Leave was granted to **Mrs Macdonald** on behalf of Willowridge Developments Limited and Central Land Holdings Limited to file further legal submissions on the matter of jurisdiction (being a matter traversed in Mr Barr's written notes) such further submissions being dated 13 June 2018. Further legal submissions on the jurisdiction matter were also provided by **Mr Nidd** on behalf of Exclusive Developments Limited, those submissions being dated 19 June 2018.

7.5 Requestor's Reply

After hearing from submitters and council officers, **Mr Goldsmith** made a few brief comments at the hearing. Leave was granted to Mr Goldsmith to provide his formal reply in writing. He also indicated that Mr Edmonds would provide a final, updated, copy of the amendments requested.

Mr Goldsmith's closing legal submissions dated 21 June 2018 were lodged with the Council on that date. Mr Edmonds's final amendments were lodged with the Council on 29 June 2018.

The reply focussed, in particular, on addressing the provision for a small supermarket as provided for in Plan Change 53. Mr Goldsmith confirmed that the requestors primary position is that no policy amendments are necessary for Plan Change 53 to proceed; albeit that he addressed two minor policy amendments (with respect to Policy 1.7 and Policy 2.6) either of which might be considered by the Hearings Panel to be necessary and/or appropriate. Mr Goldsmith also distinguished the two *Halswater* cases¹ (being decisions provided by Ms Macdonald at the hearing that were referred to in her further submissions) from the current situation. Mr Goldsmith noted that *Halswater* involved the addition of a new suite of objectives and policies which would have enabled a significantly different rule regime outcome, rather than involving minor "clarification" amendments of the nature now suggested by the requestor.

Mr Goldsmith concluded that Plan Change 53 can appropriately be recommended for acceptance by the Council on the basis publicly notified, subject to:

- (a) The minor tweaks to the retail rule which have been sorted out through the hearing process;
- (b) The possible additional amendment limiting the location of a supermarket to one of Lots 1005 and 1006;
- (c) The possible minor amendments to Policy 1.7 and/or 2.6 as discussed in his reply.

8.0 ASSESSMENT

The Act requires that submission points are addressed by grouping them according to the provisions of the plan change to which they relate, or to the matters to which they relate. In this instance the requested Plan Change 53 has five components as listed in Clause 1.3 of the Request Document. These are to:

¹ C183/2000 and AP41/00 (HC)

- Amend the boundaries of particular Activity Areas to enable more efficient use of urban zoned land, and to provide flexibility to develop a retirement village; and
- Increase the retail floor area restriction to enable a small supermarket to be established; and
- Amend the signage rules to provide for increased signage for commercial buildings in Activity Area D1; and
- Remove the Part 15 Subdivision rule relating to Community Facilities, for future administrative certainty; and
- Consequential rule changes that address matters raised in expert reports (in support of Plan Change 53).

The Commission also acknowledges that Mr Barr's report in Section 7 contains an analysis of both the effects on the environment of Plan Change 53 and the appropriateness, costs and benefits of the plan change request in terms of the relevant national, regional and district plan provisions and objectives. He identifies the relevant matters as falling into the following issues:

Issue 1 : Effects on housing supply.

Issue 2 : Effects on retail economics and the viability of Wanaka's business zones.

Issue 3 : Urban amenity.

Issue 4 : Transportation.

Issue 5 : Infrastructure.

The Hearings Panel has decided to assess Plan Change 53 and the submissions and further submissions thereto based on the five components of Plan Change 53 as listed in the Request Document. The Hearings Panel has had regard to the submission points in the context of each of these components.

A number of specific matters were raised in the submissions and/or were raised by submitters or officers at the hearing. We address those matters commencing at 8.6 below.

The full list of the submitters and further submitters to PC 53 is provided in **Appendix 1**.

Attached at **Appendix 2** is a summary of the submissions that have not been withdrawn. The summary identifies the submission points and indicates whether these are supported or opposed by any further submitter.

Our analysis in 8.1-8.10 below is generally structured as follows:

- The issue and decision requested – being a general summary of the issue and the main points raised in the submissions and further submissions.
- A discussion which reflects our assessment of the submission points that relate to the issue and which provide reasons for our recommendations.
- Our recommendations as these relate to the submission points that relate to each issue. These state whether each submission point is to be **accepted, accepted in part** or **rejected**. We attach at **Appendix 3** the plan provisions that relate to PC 53 as amended by our recommendations.

The Hearings Panel confirms that it has given consideration to the full contents of all submissions and further submissions which have not been withdrawn, copies of which were provided to the Hearings Panel prior to the hearing.

8.1 AMEND THE BOUNDARIES OF PARTICULAR ACTIVITY AREAS ON THE NORTHLAKE STRUCTURE PLAN

The Issues and Decisions Requested

Plan Change 53 provides for the amendment of the Northlake Structure Plan as detailed at Attachment F to the Request Document. The adjustment of the Activity Area boundaries occurs within that part of the site involving Activity Areas D1, C2, B3, B2 and E1 being land generally located to the north of Northlake Drive and west of Outlet Road.

The primary adjustment provides for 4.2 hectares of land (in total) to be changed from Activity Areas B3, C2 and E1 to Activity Area D1, for the stated purpose of enabling a retirement village to be established in a location that is considered appropriate for that activity. It is noted that a retirement village could be established in the existing Activity Area D1 but the intent of the requestor is that a more substantial retirement village be provided for on the expanded Activity Area D1. It is also noted that use of the expanded Activity Area D1 is not restricted to a retirement village. Activity Area D1 provides for a wide range of residential and commercial activities (as defined in the Operative District Plan). The Hearings Panel has assessed the proposed expansion of Activity Area D1 on the basis that this land could be used for a variety of activities as enabled by the NSZ provisions.

The other adjustments to Activity Area boundaries are intended to ensure that land proposed for residential development is fully contained in the appropriate Activity Area. These amendments include an aggregate area of 2460m² being transferred from Activity Area C1 to Activity Area B2; and an area of 7,571m² to be transferred from Activity Area C1 to Activity Area B3.

While several submitters have promoted that the entire plan change be rejected; no submissions have challenged this component of Plan Change 53 specifically.

Discussion & Reasons

Following consideration of the evidence and reports the Hearings Panel has come to the conclusion that the amendments to the boundaries of the relevant activity areas, as proposed, are appropriate.

The Hearings Panel notes that a key amendment is to transfer 1.5588 hectares of land adjacent to Outlet Road that is currently in Activity Area C2 to Activity Area D1. The Hearings Panel acknowledges that specific amendments to rules are proposed (as discussed in Section 8.5 of this report below) which are intended to provide for an appropriate urban design response at the interface of the extended Activity Area D1 and Outlet Road. The Commission considers that such treatment at the boundary is an important element in Plan Change 53.

With regard to other potential effects arising from the expansion of Activity Area D1, the Hearings Panel agrees that the expanded Activity Area D1 will be able to accommodate more dwellings and/or a retirement village which would be beneficial in terms of housing choice and supply. The expanded Activity Area D1 may also enable more commercial activities and the Hearings Panel is satisfied in this regard that the NSZ provisions contain sufficient methods to manage the effects of these activities on the surrounding residential amenity.

In all the circumstances the Hearings Panel finds that it is appropriate to adjust the Activity Area boundaries on the Northlake Structure Plan as proposed by the requestor in Plan Change 53.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that those submissions which have requested that the entire plan change be rejected, be accepted in part.

Hearings Panel's Recommendations

1. That the submissions by Stephen Popperwell (03.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Michael and Eyre McCauley (10.2); Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17); and Allenby Farms Ltd (14.1) be **accepted in part**.

8.2 INCREASE THE RETAIL FLOOR AREA RESTRICTION TO ENABLE A SMALL SUPERMARKET

The Issues and Decisions Requested

Plan Change 53 provides for the amendment of Zone Standard 12.34.4.2viii(b) and (c) which relate to retail activity in Activity Area D1 in the Northlake Special Zone. Zone Standard 12.34.4.2viii(b), as amended in Mr Edmonds's evidence, is to enable one activity with a maximum gross floor area of 1250m² that is to be limited to the supermarket. It is proposed that Zone Standard 12.34.4.2viii(c) limit the total amount of retail activity, excluding the supermarket, to 1250m² in total.

The requestor has advised that the purpose of this component of Plan Change 53 is to enable a small supermarket to be established within the Northlake Special Zone to provide local residents with a local grocery shopping alternative.

The submission by Jo & Mark Harry (05.1) supports provision for a supermarket at Northlake.

Submitters who have explicitly opposed any increase to the maximum floor area for retail activities include Gary Tait (02.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16), Willowridge Developments Limited (06.1 & 06.2) and Central Land Holdings Limited (07.1 & 07.2).

Discussion & Reasons

This component of Plan Change 53 received considerable attention at the hearing in terms of both legal submissions and expert evidence. It is not proposed to traverse all of the matters discussed here; but rather to focus on the key elements which have influenced the Hearings Panel in its decision making.

At the outset it is appropriate to acknowledge that Plan Change 53 is a change to the Operative District Plan. Accordingly the Hearings Panel has given particular attention to the relevant objectives and policies of the Operative District Plan. Consideration has also been given to the relevant objectives and policies of the Proposed District Plan as amended by the Council's decisions on submissions (which were released in May 2018).

Section 4.9 of the Operative District Plan contains district wide objectives and policies relating to Urban Growth.

Objective 4 and its associated policies are of particular relevance in this instance:

"Objective 4 – Business Activity and Growth

A pattern of land use which promotes a close relationship and good access between living, working and leisure environments.

Policies:

- 4.1 *To promote town centres, existing and proposed, as the principal foci for commercial, visitor and cultural activities.*
- 4.2 *To promote and enhance a network of compact commercial centres which are easily accessible to, and meet the regular needs of, the surrounding residential environments.*
- ...

The Hearings Panel considers that this component of Plan Change 53 is consistent with the above District Wide objective and policies.

Objectives and policies presented in Part 12.33 of the Operative District Plan that are specific to the Northlake Special Zone include the following:

“Objective 1 – Residential Development

A range of medium to low density and larger lot residential development in close proximity to the wider Wanaka amenities.

...

- 1.7 *To provide for small scale neighbourhood retail activities to serve the needs of the local community within Activity Area D1 and to avoid visitor accommodation, commercial, retail and community activities and retirement villages within Activity Areas other than within Activity Area D1.*
- 1.8 *To provide for community activities, including educational facilities, to serve the needs of the Northlake community and to be available for use by the wider Wanaka community.*

...

Objective 2 – Urban Design

Development demonstrates best practice in urban design and results in a range of high quality residential environments.

...

- 2.6 *To enable visitor accommodation, commercial, retail and community activities and retirement villages within Activity Area D1 including limited areas of small scale neighbourhood retail to service some daily needs of the local community, while maintaining compatibility with residential amenity and avoiding retail development of a scale that would undermine the Wanaka Town Centre and the commercial core of the Three Parks Special Zone.*

...”

While Objective 1 and Objective 2 refer to “residential development” and “residential environments”, respectively, Policies 1.7 and 2.6 provide for retail and other non-residential activities. The residential focus of the respective objectives appears to reflect the primary function of the Northlake Special Zone as a residential zone.

The Hearings Panel notes that Policy 1.7 refers to serving the “local community” whereas Policy 1.8 refers to community activities that are to be available for use by the “wider Wanaka community”. The Hearings Panel accepts that the reference to “local community” in Policy 1.7 does not specifically relate to the Northlake community (ie. those with properties in the Northlake Special Zone) but rather to a wider community at North Wanaka. The Hearings Panel notes in this context that the decision on Plan Change 45 (that

provided for the rezoning of approximately 219.26 hectares of land being the Northlake Special Zone), in the context of the retail area at Northlake, stated as follows:

“It is envisaged that such retail area will primarily serve the land subject to PC 45 albeit that this amenity may also be utilised by those that live in the immediate vicinity....”

This statement supports the Hearings Panel’s conclusion that the “local community” extends beyond the Northlake Special Zone.

The Hearings Panel has come to the conclusion that the retail component of Plan Change 53 is consistent with providing for small scale neighbourhood retail activities to serve the needs of the local community within Activity Area D1. The Hearings Panel notes in this context the evidence of Mr Polkinghorne which was that the supermarket proposed at Northlake will be smaller than any other in the Queenstown Lakes District. The Hearings Panel also notes in this context that it is theoretically possible that a range of food retail activities could be accommodated at Northlake in terms of the current Zone Standard 12.34.4.2viii comprising a series of shops which, together, could result in a food offering similar in scale to that anticipated for the proposed small supermarket.

Policy 2.6 contains direction to avoid retail development of a scale that would undermine the Wanaka Town Centre and the commercial core of the Three Parks Special Zone.

Messrs Copeland and Polkinghorne along with Ms Hampson have advised that the small supermarket proposed for Northlake would not undermine the Wanaka Town Centre. The Hearings Panel accepts that this is the case.

The Hearings Panel has given particular consideration to whether the retail component of Plan Change 53 would undermine the commercial core of the Three Parks Special Zone. Ms Devlin’s evidence discussed the development which has occurred at Three Parks to date and the potential for further development. She noted that Rule 12.26.7.3 of the Operative District Plan provides for 10,000m² of retail floor space as a permitted activity (subject to resource consent for the buildings as a controlled activity) at Three Parks. Releasing floor space above the initial 10,000m² requires resource consent as a restricted discretionary activity and is subject to a “health check” of the Wanaka Town Centre and a retail needs assessment. Overall the commercial core of Three Parks is capable of accommodating over 30,000m² of retail floor space.

Ms Devlin also advised that in mid-2016 the Wanaka Recreation Centre opened at Three Parks and the Hearings Panel understands that a new 3-pool swimming pool complex at the Recreation Centre was to open on 10 June 2018.

Ms Devlin advised us that Foodstuffs has sought resource consent for a 4,353m² supermarket at Three Parks being RM 171541; and that resource consent was anticipated on 6 June 2018 (the second day of our hearing). Ms Devlin advised that Foodstuffs intends to start construction on-site in August 2018 with the supermarket opening in 2019. Ms Devlin also referred to the prospect of the BP Service Station relocating from the Wanaka Town Centre to Three Parks; and to talks that are underway with a number of retail operators wishing to acquire land or premises in the commercial core at Three Parks.

The Hearings Panel’s conclusion, having considered the evidence of the economists and Ms Devlin’s evidence with respect to development at Three Parks, is that providing for a small supermarket at Northlake would not undermine the Three Parks Special Zone.

Land at Anderson Heights is included in the Business Zone in terms of the Operative District Plan. The Hearings Panel notes, in the first instance, that there is no reference to Anderson Heights in Policy 2.6. In terms of the Operative District Plan retail activity is

generally provided for as a discretionary activity at Anderson Heights. The Hearings Panel considers that providing for a small supermarket at Northlake will not have an adverse effect on activity in the Business Zone at Anderson Heights.

The Hearings Panel was informed that the decisions version of the Proposed District Plan provides for Anderson Heights to be included in the Business Mixed Use Zone, where retail activity is a permitted activity. The Hearings Panel was also advised that no submissions were lodged in opposition to this change in status of retail activity at Anderson Heights notwithstanding this will result in some 7.8 hectares of land becoming potentially available for retail activity (as a permitted activity). Ms Devlin confirmed that Willowridge Developments Limited had not lodged a submission opposing this aspect of the Proposed District Plan.

Given the relative scale of retail proposed at Northlake (via Plan Change 53) and the extent of the land proposed to be zoned at Anderson Heights where retail activity is to be permitted, the Hearings Panel has concluded that the retail component of Plan Change 53 will not have a significant adverse effect on Anderson Heights.

The Hearings Panel's conclusion is that amending Zone Standard 12.34.4.2viii, to provide for a small supermarket in Activity Area D1 at Northlake, will be consistent with Policy 1.7 and Policy 2.6 of the Operative District Plan.

At the hearing Mr Goldsmith, for the requestor, confirmed that the requestor is agreeable to Zone Standard 12.34.4.2viii(b) specifically providing for a small supermarket on Lot 1006 as identified on a plan attached to Mr Bretherton's evidence. Lot 1006 is located to the south of Northlake Drive, has roads to the east and west and a Local Purpose Reserve (Recreation and Drainage) immediately to the south. Locating the supermarket on Lot 1006 would ensure that this activity is located centrally within the requestors land at Northlake; and that the supermarket would not be located, say, adjacent to Outlet Road.

In his reply Mr Goldsmith raised the possibility that the supermarket could be located on Lot 1005 as an alternative to Lot 1006. Lot 1005 has frontage to Northlake Drive and has been partially developed for community facilities. Again Lot 1005 is not located adjacent to Outlet Road.

The Hearings Panel is satisfied that Zone Standard 12.34.4.2viii(b) should specify that the supermarket is to be located on Lot 1005 or Lot 1006 DP 515015.

The Hearings Panel notes that the retail component of Plan Change 53 promotes that other retail activity be permitted to an area of 1,250m², an increase of 250m² over the current 1000m² limit in the NSZ. Little evidence was advanced in support of this amendment. In all the circumstances the Hearings Panel considers it appropriate to retain the cap on the amount of retail activity (apart from the small supermarket) at 1,000m² gross floor area in Activity Area D1 at Northlake.

As noted above the Hearings Panel has found that amending Zone Standard 12.34.4.2viii is consistent with Policy 1.7 and Policy 2.8. Notwithstanding this the Hearings Panel considers that, as a consequential amendment, it would be advantageous for these policies to specifically refer to the provision of one small supermarket within Activity Area D1. Such an amendment is consistent with the clear intent of the retail component of Plan Change 53 (albeit that this relates to the zone standard only) and reinforces the requestors intention that one small supermarket only be provided for at Northlake. This matter is discussed further in Section 8.7 of this report.

The Hearings Panel has given consideration to the traffic effects of this component of Plan Change 53 and particularly traffic effects on Outlet Road, Mt Linton Avenue and Northburn Road. Mr Carr observed that drivers typically select their routes to minimise their travel

times and that for vehicles approaching from the east, the shortest route will be to use Outlet Road because:

- The operating speed on Outlet Road is faster than on either Mt Linton Avenue or Northburn Road due to reduced potential to encounter drivers turning to/from driveways;
- There are fewer intersections to negotiate if travelling on Outlet Road;
- The distance is slightly shorter via Outlet Road (being approximately 200 metres shorter).

Mr Carr also noted that while each potential route for vehicles approaching from the west (Northburn Road, Mt Linton Avenue and Outlet Road) are approximately the same; it is likely that the Outlet Road route will be favoured as it remains the quicker for the reasons listed above. As a consequence Mr Carr did not consider that any measures to dissuade drivers from using Northburn Road and Mt Linton Avenue need to be implemented, but rather he considered that clear signposting of the Outlet Road route will be sufficient. It is anticipated that such signage will refer to a “Village Centre” or similar.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that those submissions which have requested that the entire plan change be rejected, be accepted in part.

Hearings Panel’s Recommendations

1. That the submission by Jo & Mark Harry (05.1) be **accepted**.
2. That the submissions by Gary Tate (02.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Willowridge Developments Limited (06.1); and Central Land Holdings Limited (07.1) be **accepted in part**.
3. That the submissions by Willowridge Developments Limited (06.2) and Central Land Holdings Limited (07.2) be **rejected**.
4. That the submissions by Stephen Popperwell (03.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Michael and Eyre McCauley (10.2); Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17); and Allenby Farms Ltd (14.1) be **accepted in part**.

8.3 AMEND THE SIGNAGE RULES IN CHAPTER 18

The Issues and Decisions Requested

Plan Change 53 provides for the amendment of Chapter 18 of the Operative District Plan, which relates to signs, to provide for commercial signage rules to be applied to buildings and activities in Activity Area D1 at Northlake.

The requestor has noted that the operative sign rules apply the residential standards across the whole of the Northlake Special Zone; and do not differentiate Activity Area D1, where commercial buildings up to 10 metres high are anticipated to occur, from the other Activity Areas at Northlake which are essentially residential in character. This component of Plan Change 53 promotes that Activity Table 1 (Commercial Areas) in Part 18 be amended to refer to the “Corner Shopping Centre Zone and Northlake Special Zone – Activity Area D1”; and for Activity Table 2 (Residential Areas) to refer to “Quail Rise, Meadow Park, Northlake (except Activity Area D1) & Shotover Country Special Zones”.

While several submitters have promoted that the entire plan change be rejected; no submissions have specifically challenged this component of Plan Change 53.

Discussion & Reasons

The Hearings Panel acknowledges that Activity Area D1 at Northlake is intended to accommodate retail and other commercial activities as evidenced by Policies 1.7 and 2.6 and by the relevant rules which apply in the Northlake Special Zone. Given the range of activities to be accommodated in Activity Area D1 it is incongruous that residential rather than commercial standards should apply to associated signage. Accordingly the Hearings Panel has concluded that the amendments to Chapter 18, as promoted by the requestor in Plan Change 53, are appropriate.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that those submissions which have requested that the entire plan change be rejected, be accepted in part.

Hearings Panel’s Recommendations

- 1. That the submissions by Stephen Popperwell (03.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Michael and Eyre McCauley (10.2); Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17); and Allenby Farms Ltd (14.1) be **accepted in part**.

8.4 DELETE ZONE SUBDIVISION STANDARD 15.2.16.3 ENTITLED “NORTHLAKE SPECIAL ZONE : COMMUNITY FACILITIES”

The Issues and Decisions Requested

Plan Change 53 proposes that Zone Subdivision Standard 15.2.16.3 as contained in Chapter 15 Subdivision, Development and Financial Contributions be deleted. This Zone Standard is titled “Northlake Special Zone – Community Facilities” and requires that particular “community activities” be provided during the early stages of subdivision of land at Northlake. The requestor has advised that these subdivision stages have occurred and that the facilities have either been provided or alternative facilities approved and completed or under construction.

The requestor also advises that the Council has interpreted Zone Subdivision Standard 15.2.16.3 as applying to all subsequent subdivision activity within the Northlake Special Zone; and as a consequence future subdivisions have status as a non-complying activity. The requestor considers that this outcome is inappropriate and unnecessarily administratively cumbersome.

While several submitters have promoted that the entire plan change be rejected; no submissions have specifically challenged this component of Plan Change 53.

Discussion and Reasons

Zone Subdivision Standard 15.2.16.3(iv)(a) confirms that for the purposes of the rule community facilities that are required means an indoor 20m – 25m lap pool, a fitness/gym facility, a children’s play area, and at least one tennis court.

The children’s play area and a tennis court are in existence in Activity Area D1. A fitness/gym facility is being provided within the new Health Centre building which was consented under RM 161230 on 5 May 2017. The Commission notes in passing that the buildings consented under RM 161230 were to be located on Lot 1006; and, given the

requestors intention to possibly locate the small supermarket on Lot 1006, the buildings provided for in terms of RM 161230 would under such circumstances need to be located elsewhere within Activity Area D1; probably on Lot 1005 to the north of Northlake Drive.

The request document at Clause 3.3.4 advised that “the Council has recognised that the 25m indoor swimming pool requirement is appropriately substituted by the provision of the Health Care Centre; and that the Council has accepted the provision of a Health Centre as an alternative to the pool”. The Hearings Panel enquired of the requestor whether further documentation is available to confirm that this was the case given that the Council’s decision RM 161230 simply observes that “the applicant states that the proposal fulfils part of the requirement to provide community facilities....”.

Mr Goldsmith tabled an extract from the Council’s decision RM 161292 being the subdivision consent for Stages 4-6 of the Northlake subdivision. That decision observes that the applicant (being Northlake Investments Limited, the requestor) wishes to proceed with the subdivision without providing a 20-25 metre indoor swimming pool facility as the applicant no longer intends to provide a pool facility within the development. That decision acknowledges that a public pool is under development at Three Parks [which was to be opened on 10 June 2018]; and the decision observes that opportunities would still be available for residents to access a covered pool within the wider Wanaka area (at Three Parks). The Council concluded in RM 161292 that any adverse effects associated with additional lots being created without the necessary community facilities were considered to be minor.

The Hearings Panel also acknowledges that Mr Edmonds advised that in his consultation with Council officers it was clearly understood that a pool would not now be provided at Northlake; and Mr Goldsmith submitted that the existing requirement for a pool in Zone Subdivision Standard 15.2.16.3 was inserted at a time when there was uncertainty with respect to the location of a new pool at Wanaka; and that Northlake had proposed to establish such a pool for the wider community in the proposed Northlake Special Zone.

Having regard to the information now available the Hearings Panel is satisfied that the community facilities intended to be provided at Northlake (in terms of Zone Subdivision Standard 15.2.16.3) have been provided; and that it is clearly understood that an indoor 20m – 25m lap pool is no longer to be provided at Northlake.

Given that the community facilities sought through Zone Subdivision Standard 15.2.16.3 (with the exception of the lap pool) have been or are to be provided in the NSZ, the Hearings Panel concurs that the deletion of Zone Subdivision Standard 15.2.16.3 is now appropriate. This component of Plan Change 53 will enhance efficiency as it avoids a situation whereby the subdivision of urban land for urban purposes would otherwise default to a non-complying status.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that those submissions which have requested that the entire plan change be rejected, be accepted in part.

Hearings Panel’s Recommendations

1. That the submissions by Stephen Popperwell (03.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Michael and Eyre McCauley (10.2); Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17); and Allenby Farms Ltd (14.1) be **accepted in part**.

8.5 CONSEQUENTIAL CHANGES TO SPECIFIC RULES

The Issues and Decisions Requested

Plan Change 53 provides for various rule changes to address recommendations made in Mr Baxter's Landscape and Urban Design Assessment (being Attachment B to the Request Document) and in response to requests for information/clarification from Council officers in the process of preparing Plan Change 53 for notification. The consequential changes proposed to the rules are as follows:

- Amend Rule 12.34.2.6i to clarify that fish and meat processing can occur within a food retail premises; and is therefore not a prohibited activity in terms of that rule.
- Amending Rule 12.34.4.1ii(b) to require a setback 7 metres from Outlet Road north of Mt Burke Drive.
- Amending Rule 12.34.3.4.1viii(b) to prevent direct access to Outlet Road.
- Amending Rule 12.34.4.1x(d) to provide for a consistent landscape edge along the western side of Outlet Road.
- Amending Rule 12.34.4.2iv(a) to limit buildings within 40 metres of Outlet Road to the north of Mt Burke Drive to two levels.

The Hearings Panel notes that apart from the amendment to Rule 12.34.2.6i all other amendments relate to Activity Area D1 and are intended to mitigate the effects of development within Activity Area D1 where this replaces Activity Area C2 adjacent to Outlet Road.

The amendment to Rule 12.34.2.6i is subject to a specific submission by Gary Tate (02.2); and the submission by Joe & Mark Harry (05.2) appears to relate specifically to the amendment proposed to Rule 12.34.3.4.1viii(b).

Discussion & Reasons

The Hearings Panel considers that the amendment proposed to Rule 12.34.2.6i is appropriate. It is common place for fish or meat processing to occur within the context of a retail activity (particularly a small supermarket) or a restaurant; and it would be inappropriate for such activity to have status as a prohibited activity. The Hearings Panel therefore accepts the amendment as proposed by the requestor and considers that the submission by Gary Tate (02.2) should be rejected.

The Hearings Panel also accepts that the other amendments which are proposed in the context of Activity Area D1 for urban design purposes, are appropriate subject to minor amendments. In particular the restriction of access (in terms of Rule 12.34.4.1viii(b)) should relate to any activity (ie residential or non-residential activity) within Activity Area D1, rather than just residential activity; and accordingly the submission by Jo & Mark Harry (05.2) which appears to promote access to the commercial area from Outlet Road should be rejected.

The Hearings Panel notes that the landscape treatment proposed in terms of the new Rule 12.34.4.1x(d)(iv) is consistent with the landscape treatment achieved elsewhere along the Outlet Road frontage. It is also noted in this context that Mr Baxter observed that the post and rail timber fence is to be located on the top of mounding adjacent to Outlet Road; and that space exists within private land between the fence and the legal road boundary. The Hearings Panel anticipates that this area will be subject to management via a covenant or similar to ensure a uniform standard of appearance between the post and rail timber fence and the footpath adjacent to Outlet Road. The Hearings Panel agrees with Ms Skidmore that trees are also an important component of landscape treatment. While the amended rule removes the need to plant trees at regular intervals in Activity Area D1, this does not preclude tree planting here. Street trees are likely and it is noted that the matters for

discretion for buildings in Activity Area D1 include landscaping. As a consequence, in addition to the fence and hedge, a larger commercial building close to the Outlet Road frontage could also involve tree planting between the building and the road, depending upon building design and orientation.

The Hearing Panel's conclusion is that the consequential amendments to various rules, as further amended by the requestor at the hearing and as provided in writing by Mr Edmonds on 29 June 2018, are generally appropriate.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that those submissions which have requested that the entire plan change be rejected, be accepted in part.

Hearings Panel's Recommendations

1. That the submission by Gary Tate (02.2) be **rejected**.
2. That the submission by Jo & Mark Harry (05.2) be **rejected**.
3. That the submissions by Stephen Popperwell (03.1) supported by Willowridge Developments Limited (FS-15) and Central Land Holdings Limited (FS-16); Michael and Eyre McCauley (10.2); Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17); and Allenby Farms Ltd (14.1) be **accepted in part**.

8.6 PLAN CHANGE 53 V DISTRICT PLAN PROCESS

The Issues and Decisions Requested

Michael and Eyre McCauley (10.1) have requested that if Plan Change 53 is allowed it should form part of the district plan and not be by way of a private plan change request.

Discussion & Reasons

The Hearings Panel simply notes that section 73(2) of the Resource Management Act 1991 confirms that any person may request a territorial authority to change a district plan; and that the district plan may be changed in the manner set out in Schedule 1 to the Act.

In this instance Northlake Investments Limited has requested proposed Plan Change 53 and this plan change is progressing through the Schedule 1 process. There is no basis to direct that an amendment be made via the district plan review process rather than via a plan change process.

Hearings Panel's Recommendation

1. That the submission by Michael and Eyre McCauley (10.1) be **rejected**.

8.7 MINOR POLICY CHANGES

The Issues and Decisions Requested

Mr Goldsmith in his reply referred to two minor policy amendments which (either or both) might be considered by the Hearings Panel to be necessary and/or appropriate; such amendments relating to Policy 1.7 and Policy 2.6. These amendments were reproduced at paragraph 79 of Mr Goldsmith's reply as follows:

“1.7 To provide for small scale neighbourhood retail activities including one small supermarket to serve the needs...”

“2.6 To enable visitor accommodation, commercial, ~~retail and~~ community activities, ~~and~~ retirement villages and limited small scale retail activities including one small supermarket, within Activity Area D1 ~~including limited areas of small scale neighbourhood retail~~ to service...”

Mr Goldsmith also noted that, depending on the Hearings Panel’s final interpretation of Policies 1.7 and 2.6, the word “including” in the amendments suggested above could be replaced by “plus”.

Mr Edmonds also promoted the inclusion of a new Policy 2.8 that relates to the design and appearance of non-residential buildings. Mr Baxter and Ms Skidmore agreed that such a policy was appropriate.

Discussion & Reasons

A person who perused Plan Change 53, as notified, will have been aware that the proposed increase in the retail floor area restriction was to enable a small supermarket to be established. This is clearly stated in, for example, Section 1.1 of the Request Document dated November 2017.

The minor policy amendments suggested by the requestor to Policy 1.7 and 2.6 are consistent with the intent of Plan Change 53 (as notified) to provide for a small supermarket at Northlake. The minor policy amendments suggested by the requestor recognise that a small supermarket is to be enabled (consistent with the submission by Jo & Mark Harry (05.1)) and, at least in part, addresses the concern with respect to large scale retail development expressed in the submission by Gary Tate (02.1). In all the circumstances the Hearings Panel has concluded that there is jurisdiction to make these two minor policy amendments as suggested by the requestor.

The Hearings Panel does not consider it appropriate to replace the word “including” with the word “plus” in the two policies. The Hearings Panel has accepted in Section 8.2 of this report (above) that small scale neighbourhood retail activities are deemed to include a small supermarket being the retail component of Plan Change 53; and on this basis the word “plus” would be inappropriate.

The Hearings Panel is satisfied that the relevant assessment matters provide a sufficient basis for assessing any application for a building to accommodate a small supermarket; such building having status as a restricted discretionary activity in terms of Rule 12.34.4.3iv. While this is the case the Hearings Panel also considers that it would be beneficial for a new Policy 2.8 to be inserted which relates to the design and appearance of non-residential buildings in the context of Objective 2 – Urban Design. The new Policy 2.8 complements the relevant assessment matters; and the Hearings Panel is satisfied that such a policy is a consequential amendment with respect to the retail component of Plan Change 53.

Hearings Panel’s Recommendation

1. That the submission by Jo & Mark Harry (05.1) be **accepted**.
2. That the submission by Gary Tate (02.1) supported by Willowridge Developments Limited (FFS-15) and Central Land Holdings Limited (FS-16) be **accepted in part**.

8.8 STORMWATER

The Issues and Decisions Requested

The submission by Exclusive Developments Limited (11.1) has raised the issue of stormwater discharge into neighbouring properties. Mr Nidd's legal submission (as presented by Ms Brown) addressed this matter further and provided photographs with respect to repeated flooding of the submitter's land.

Discussion & Reasons

The stormwater effects described in the legal submissions presented on behalf of Exclusive Developments Limited relate to the existing situation at Northlake. The Hearings Panel concurs with Mr Goldsmith that the only stormwater effect arising as a consequence of Plan Change 53 is the extent to which an increase in building density, arising from the expanded Activity Area D1 area, may increase the amount of stormwater required to be managed as a result of an increase in impervious surfaces.

The Infrastructure Report (at Attachment C to the Request Document dated November 2017) confirms that the Northlake development proposes to maintain the runoff characteristics of the existing catchment and that the proposed adjustments to the Activity Areas are not going to result in a change to the stormwater catchments. The Infrastructure Report noted that the development will result in an alteration to the existing runoff flow paths and will result in an increase in peak flow runoff once the development is completed and all dwellings are built due to a slight increase in proposed density. Stormwater design is a matter that can be addressed through the Outline Development Plan process. The proposed approach to stormwater management is deemed to be acceptable by Mr Vail, as confirmed in the review of the Infrastructure Report (Appendix 5 to the section 42A report).

In his reply Mr Goldsmith noted, as he had done during the course of the hearing, that the more intensive development of the expanded Activity Area D1 will be located in a completely different stormwater catchment than that which has caused the issues depicted in the photographs attached to Mr Nidd's submission.

Mr Goldsmith also summarised issues relating to High Court proceedings relating to an Easement Agreement for stormwater to be conveyed across Exclusive Developments Limited land.

The Hearings Panel's conclusion is that the stormwater issue is a matter to be addressed under other existing legislation and rules. No evidence has been presented to the Hearings Panel to demonstrate that Plan Change 53 would have any particular effect in terms of stormwater management on the Exclusive Developments Limited property.

As certain provisions of Plan Change 53, as notified, have been amended it is appropriate that the submission by Exclusive Developments Limited which has requested that the entire plan change be rejected, be accepted in part.

Hearings Panel's Recommendation

1. That the submission by Exclusive Developments Limited (11.1) supported by Willowridge Developments Limited (FS-15), Central Land Holdings Limited (FS-16) and Robyn & Paul Hellebrekers (FS-17) be **accepted in part**.

8.9 RECOMMENDED CHANGES TO OBJECTIVES AND POLICIES

The Issues and Decisions Requested

Mr Barr in his section 42A report recommended that the plan change be accepted with modifications; and in particular he promoted that more prescriptive objectives and policies

be incorporated into the Northlake Special Zone provisions to ensure potential adverse effects of retail activities are appropriately managed.

On 6 June 2018 Mr Barr tabled a set of his recommended provisions at the hearing, such information being provided at the request of the Hearings Panel. Mr Barr recommended the inclusion of a new Objective 7 – Non-Residential Activities and related Policies 7.1-7.4 to replace current Policy 1.7 and (in part) current Policy 2.6; a rewritten Policy 2.6 and new Policies 2.9 and 2.10. For completeness it is noted that Mr Barr also supported a new Policy 2.8 (which is discussed in Section 8.7 of this report).

Mr Barr considered that his recommended amendments to the Northlake Special Zone provisions were within scope for the Hearings Panel to consider as valid changes for the reasons listed in Clause 2.1 of his written notes dated 8 June 2018. Ms Macdonald in her Memorandum dated 13 June 2018 submitted that there was no jurisdiction to introduce Objective 7 and its associated policies; and this submission was supported by Mr Nidd in his further legal submissions dated 19 June 2018.

Discussion & Reasons

The Hearings Panel received considerable submissions on the issue of jurisdiction from Mr Goldsmith (in his opening), from Ms Macdonald (in her opening and in her further submissions), from Mr Nidd (in his further submissions) and from Mr Goldsmith again in his reply.

It is important to note in the first instance that the deletion of Policy 1.7 and Policy 2.6 and their replacement with a new Objective 7 and associated policies (and other replacement and new policies) were not promoted in Plan Change 53 as notified. These amendments were recommended in Mr Barr's report which was prepared subsequent to the notification of Plan Change 53 and the receipt of submissions and further submissions thereon.

The scope for decisions lies between what was notified and what was sought in submissions. Mr Barr has helpfully provided the Hearings Panel with a Memorandum from Meredith Connell dated 9 August 2016 which was provided to the Hearings Panel responsible for hearing submissions and further submissions on the Proposed District Plan. Paragraph 2 of that Memorandum states:

"2. In our view, the Panel is not prevented from amending the overlaying objectives and policies where a submitter has only sought amendments to the relevant rule(s) as long as any such amendments do not go beyond what is fairly and reasonably raised in the submission."

In this instance the Hearings Panel has concluded that the new Objective 7 and associated policies and the other new and amended policies (apart from Policy 2.8), as recommended by Mr Barr, go beyond what is fairly and reasonably raised in the submissions on Plan Change 53. The Hearings Panel has therefore concluded that there is no jurisdiction to make the recommended changes to objectives and policies, as promoted by Mr Barr.

Notwithstanding the jurisdictional issue addressed above, the Hearings Panel emphasises that it saw no need to amend the objective and policies as recommended. The Hearings Panel is satisfied that Policies 1.7 and 2.6 (as amended at Appendix 3 to this report) and the new Policy 2.8 provide sufficient guidance on the nature and form of retail and other non-residential activities in the NSZ.

As an aside the Hearings Panel has concluded in Section 8.7 of this report (above) that the submissions do provide the basis for minor changes to Policy 1.7 and Policy 2.6 as promoted by the requestor; and that the new Policy 2.8 is acceptable as a consequential amendment.

Mr Barr recommended the changes to objectives and policies to ensure that potential adverse effects of commercial activities are appropriately managed. The Hearings Panel notes that the operative Northlake Special Zone provisions already enable community and commercial buildings within Activity Area D1 without, apart from retail, any limitation on gross floor area. Any such large building has discretionary restricted activity status; and the Council has control, *inter alia*, over the location, external appearance and design of the building and associated earthworks and landscaping. There are also assessment matters to guide the exercise of discretion.

In all the circumstances the Hearings Panel considers that the existing suite of objectives, policies, rules and assessment matters, along with the amended Policies 1.7 and 2.6 and the new Policy 2.8, provide an adequate basis to ensure that retail development, as provided for in Plan Change 53, is appropriately managed.

Hearings Panel's Recommendation

As this matter was simply raised in Mr Barr's section 42A report it not necessary for the Hearings Panel to make a formal recommendation on this matter.

8.10 TRADE COMPETITION

The Issues and Decisions Requested

In his opening for the requestor Mr Goldsmith addressed us on the subject of trade competition. He noted that section 74(3) of the Act states that in preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition. Ms Macdonald also discussed trade competition effects and effects which go beyond trade competition effects in her opening legal submissions for Willowridge Developments Limited and Central Land Holdings Limited.

The Hearings Panel has had to determine whether Plan Change 53 (and particularly the changes proposed to the retail rule) will have actual or potential adverse effects that extend beyond trade competition effects.

Discussion & Reasons

Information provided by Mr Goldsmith has demonstrated that both Willowridge Developments Limited and Northlake Investments Limited are trade competitors as both are in the market for the development and sale of residential lots; and as both are commercial land developers to the extent that commercial development at Northlake (including a small supermarket) may compete with commercial development at Three Parks.

Central Land Holdings Limited owns land described as Lot 1 DP 302791 and Lot 2 DP 302791 at Anderson Heights, such land being occupied by the Mitre 10 and associated parking. Mr Goldsmith presented searches of the Companies Register which confirmed a degree of common ownership between Willowridge Developments Limited and Central Land Holdings Limited.

In his reply Mr Goldsmith also noted that Exclusive Developments Limited is also a trade competitor to Northlake Investments Limited as both Exclusive Developments Limited and Northlake Investments Limited are adjoining and competing large scale residential land developers.

In response to questions from the Hearings Panel Mr Goldsmith confirmed that the requestor was not urging the Panel to disregard or strike out the submissions based on trade competition effects. Rather he was submitting that there was a lack of evidence in

opposition to the retail component of Plan Change 53 which goes beyond trade competition effects.

The Hearings Panel is satisfied that there are effects beyond trade competition effects which have to be considered including effects on the existing retail centres, in particular on the Wanaka Town Centre and the commercial core of the Three Parks Special Zone. These effects have been considered as detailed in Section 8.2 of this report. The Hearings Panel is satisfied that the submissions by Willowridge Developments Limited, Central Land Holdings Limited and Exclusive Developments Limited have raised actual and potential effects beyond trade competition effects and accordingly the Hearings Panel has given due regard to the contents of these submissions in response to Plan Change 53.

Hearings Panel's Recommendation

As the matter of trade competition was raised in legal submissions rather than in the submissions and further submissions in response to Plan Change 53 it is not necessary for the Hearings Panel to make a formal recommendation on this matter.

9.0 STATUTORY DOCUMENTS

9.1 Objectives and Policies of the National Policy Statement on Urban Development Capacity

The National Policy Statement on Urban Development Capacity 2016 (NPSUDC) is the key national policy statement relevant to Plan Change 53.

The Queenstown Lakes District is “high growth urban area” under the NPSUDC; and the NPSUDC applies to the District as a whole, including the Wanaka Urban Area.

The objectives and policies of the NPSUDC are addressed in Mr Barr’s section 42A report. Having regard to his analysis the Hearings Panel finds that Plan Change 53 generally accords with the NPSUDC; and that Plan Change 53 will assist the Council in achieving its functions to give effect to this national policy statement. Again the Hearings Panel acknowledges in this context that providing for a small supermarket at Northlake will not undermine the Wanaka Town Centre or the commercial core of the Three Parks Special Zone.

9.2 Objectives and Policies of the Otago Regional Policy Statement

The Otago Regional Policy Statement became operative on 1 October 1998 and is a broad document that sets out a range of high level objectives and policies for activities within Otago. The Regional Policy Statement contains objectives and policies relating to the Built Environment including Objective 9.4.1 which states as follows:

“9.4.1 To promote the sustainable management of Otago’s built environment in order to:

- (a) Meet the present and reasonably foreseeable needs of Otago’s people and communities; and***
- (b) Provide for amenity values, and***
- (c) Conserve and enhance environmental and landscape quality; and***
- (d) Recognise and protect heritage values.”***

The Hearings Panel is satisfied that Plan Change 53 is consistent with Objective 9.4.1 of the Regional Policy Statement and with its supporting policies. The Hearings Panel considers that Plan Change 53, which is primarily concerned with urban zoning and the

alteration of District Plan rules relating thereto, is consistent with the objectives and policies stated in the Regional Policy Statement. The Hearings Panel acknowledges that the relevant provisions of the Otago Regional Policy Statement are presented more comprehensively in Section 6.3 of the Request Document dated November 2017 that accompanied Plan Change 53 at the time of notification.

9.3 Objectives and Policies of the Proposed Otago Regional Policy Statement

The Proposed Regional Policy Statement was notified for public submissions on 23 May 2015 and decisions on submissions were released on 1 October 2016.

Mr Barr noted in his section 42A report that the majority of the provisions of the decisions version have been appealed and that mediation was currently taking place. In these circumstances the Hearings Panel concurs with Mr Barr that limited weight can be placed on the decisions version of the Proposed Regional Policy Statement.

The Hearings Panel acknowledges that the relevant provisions of the decisions version of the Proposed Regional Policy Statement are presented in Section 6.4 of the Request Document dated November 2017 that accompanied Plan Change 53 at the time of notification.

The Hearings Panel concurs with the requestor that Plan Change 53 is not inconsistent with the relevant objectives and policies of the decisions version of the Proposed Regional Policy Statement.

9.4 Objectives and Policies of the Queenstown Lakes District Plan

The Queenstown Lakes District Plan became fully operative on 10 December 2009.

Section 4 of the Queenstown Lakes District Plan contains higher order objectives and policies that apply throughout the District. The Hearings Panel considers that the objectives and policies stated in Section 4.9 Urban Growth are of particular relevance to Plan Change 53. The relevant objectives and policies state as follows:

“4.9.3 Objectives and Policies

Objective 1 – Natural Environment and Landscape Values

Growth and development consistent with the maintenance of the quality of the natural environment and landscape values.

Policies

- 1.1 *To ensure new growth occurs in a form which protects the visual amenity, avoids urbanisation of land which is of outstanding landscape quality, ecologically significant, or which does not detract from the values of margins of rivers and lakes.*
- 1.2 *To ensure growth does not adversely affect the life supporting capacity of soils unless the need for this protection is clearly outweighed by the protection of other natural or physical resources or important amenity values.”*

“Objective 2 – Existing Urban Areas and Communities

Urban growth which has regard for the built character and amenity values of the existing urban areas and enables people and communities to provide for their social, cultural and economic well being.

Policies:

- 2.1 *To ensure new growth and development in existing urban areas takes place in a manner, form and location which protects or enhances the built character and amenity of the existing residential areas and small townships.*
- 2.2 *To cluster growth of visitor accommodation in certain locations so as to preserve other areas for residential development.*
- 2.3 *To protect the living environments of existing low-density residential areas by limiting higher density development opportunities within these areas.”*

“Objective 3 – Residential Growth

Provision for residential growth sufficient to meet the District’s needs.

Policies:

- 3.1 *To enable urban consolidation to occur where appropriate.*
- 3.2 *To encourage new urban development, particularly residential and commercial development, in a form, character and scale which provides for higher density living environments and is imaginative in terms of urban design and provides for an integration of different activities, e.g. residential, schools, shopping.*
- 3.3 *To provide for high density residential development in appropriate areas.*
- 3.4 *To provide for lower density residential development in appropriate areas and to ensure that controls generally maintain and enhance existing residential character in those areas.”*

“Objective 4 – Business Activity and Growth

A pattern of land use which promotes a close relationship and good access between living, working and leisure environments.

Policies:

- 4.1 *To promote town centres, existing and proposed, as the principal foci for commercial, visitor and cultural activities.*
- 4.2 *To promote and enhance a network of compact commercial centres which are easily accessible to, and meet the regular needs of, the surrounding residential environments.*
- 4.3 *To recognise and promote the established commercial character of the Commercial Precinct which contributes to its ability to undertake commercial, health care and community activities without adversely affecting the character and amenity of the surrounding environment.”*

“Objective 7 – Sustainable Management of Development

The scale and distribution of urban development is effectively managed.

Policies:

- 7.1 *To enable urban development to be maintained in a way and at a rate that meets the identified needs of the community at the same time as maintaining the life supporting capacity of air, water, soil and ecosystems and avoiding, remedying or mitigating any adverse effects on the environment.*

- 7.2 *To provide for the majority of urban development to be concentrated at the two urban centres of Queenstown and Wanaka.*
- 7.3 *To enable the use of Urban Growth Boundaries to establish distinct and defensible urban edges in order to maintain a long term distinct division between urban and rural areas.*
- ...”

The Hearings Panel considers that Plan Change 53, as amended in accordance with the Hearing Panel’s recommendations, is consistent with the above objectives and policies. The Hearings Panel notes in this context that the Northlake Special Zone is already provided for in Section 12 of the Operative District Plan; and that the amendments to the NSZ provisions, as provided for in Plan Change 53, are consistent with the District Wide objectives and policies.

The objectives and policies which apply to the Northlake Special Zone are presented in Section 12:34 of the Operative District Plan. The Hearings Panel has discussed the retail component of Plan Change 53 in the context of Objective 1 and Objective 2 and Policies 1.7 and 2.6 in Section 8.2 of this report, above. The Hearings Panel’s conclusion is that amending Zone Standard 12.34.4.2viii, as promoted in Plan Change 53, is consistent with Policy 1.7 and Policy 2.6.

The Hearings Panel’s general conclusion is that Plan Change 53 is consistent with the objectives and policies which apply to the Northlake Special Zone and that Plan Change 53, as amended in terms of the Hearings Panel’s recommendations, better achieves the objectives of the Operative District Plan.

The Hearings Panel is satisfied, having regard to their efficiency and effectiveness, that the amendments to the policies and rules, as provided for in Plan Change 53 as amended in terms of the Hearings Panel’s recommendations, are the most appropriate for achieving the relevant District Wide objectives and policies presented in Section 4 of the Operative District Plan and the objectives which relate to the Northlake Special Zone as presented in Part 12.33 of the Operative District Plan.

9.5 Objectives and Policies of the Proposed Queenstown Lakes District Plan

The first stage of the Proposed District Plan was notified in October 2015; and the decisions on submissions version was notified in May 2018. It is important to note at the outset that the NSZ is not zoned in the Proposed District Plan and as a consequence none of the NSZ provisions of the Operative District Plan are amended by the Proposed District Plan.

The Hearings Panel acknowledges that the provisions of the Proposed District Plan may be changed as a consequence of appeals. At the time of the hearing of Plan Change 53 and submissions thereto the decisions version of the Proposed District Plan remained subject to potential appeals; the period for such appeals closing on or about 20 June 2018.

The Hearings Panel notes that the outcomes sought in terms of the objectives and policies of the Proposed District Plan are not significantly different to the corresponding provisions of the Operative District Plan. As a consequence the Hearings Panel considers that there is no need to address the weighting of the objectives and policies of the Proposed District Plan against the corresponding objectives and policies of the Operative District Plan.

Chapter 3 – Strategic Directions of the Proposed District Plan sets out the over-arching strategic directions for the District. Mr Barr’s report presented the relevant objectives and

policies from the decisions version of Chapter 3 of the Proposed District Plan. Policy 3.3.9 and Policy 3.3.10 are of particular relevance to Plan Change 53 and state as follows:

Policy 3.3.9

Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose.

Policy 3.3.10

Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil.

In terms of Policy 3.3.9 the Hearings Panel has concluded that it is appropriate to provide for a small supermarket in Activity Area D1 at Northlake. Plan Change 53 will enable commercial development that is appropriately sized.

In terms of Policy 3.3.10 the Hearings Panel has concluded that providing for a small supermarket at Northlake will not undermine the Wanaka Town Centre or the Three Parks Special Zone.

The Hearings Panel has concluded that Plan Change 53 is consistent with the relevant objectives and policies of the Proposed District Plan.

10.0 SECTION 32 AND SECTION 32AA RMA

The Hearings Panel acknowledges that an evaluation has previously been undertaken under section 32 of the Resource Management Act 1991 with respect to Plan Change 53, as required by section 32(1) and (2) of the Act and as presented in the Section 32 Assessment as contained in Section 4.0 of the Request Document dated November 2017.

The Hearings Panel also acknowledges that a further evaluation must be undertaken by a local authority before making a decision under clause 29(4) of Schedule 1 (see section 32AA of the Act). The Hearings Panel has undertaken such an evaluation when considering the changes that have been made to the proposal since the original evaluation (as contained in the Request Document) was completed.

Changes have been made in response to matters raised in the section 42A report and to address matters raised by the Hearings Panel with counsel and witnesses at the hearing. These changes have served to refine the provisions of Plan Change 53 and, in particular, to avoid any unintended consequences that would otherwise result from enabling some form of commercial development apart from a small supermarket to take advantage of the increased retail floor space enabled by Plan Change 53.

The Hearings Panel has now evaluated whether, having regard to their efficiency and effectiveness, the policies and rules provided for in Plan Change 53 (as amended in terms of our recommendations) are the most appropriate for achieving the objectives stated in the Operative District Plan. Section 32(4) of the Act requires that such evaluation must take into account –

- (a) The benefits and costs of the effects anticipated from the implementation of the policies or rules; and
- (b) The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies or rules.

The Hearings Panel has assessed each provision to be changed having regard to the contents of the relevant submissions and further submissions and to all of the evidence before us; and having regard to section 32AA(1)(c) which directs that a further evaluation is to be undertaken at a level of detail that corresponds to the scale and significance of the changes to be made. The Hearings Panel has determined which submissions and further submissions should be accepted, accepted in part or rejected. The Hearings Panel's overall finding is that, following evaluation under section 32 and section 32AA, Plan Change 53 as amended in terms of the Hearing Panel's recommendations makes the most appropriate provision for achieving the District Wide objectives specified in Part 4 of the Operative District Plan and the objectives specific to the Northlake Special Zone as specified in Part 12.33 of the Operative District Plan.

The Hearings Panel considers that Plan Change 53, as amended in terms of our recommendations and as presented at **Appendix 3** to this report, best achieves the purpose of the Act.

11.0 PART 2 RMA

Part 2 of the Resource Management Act 1991 contains sections 5-8. We refer to them in reverse order.

Section 8 requires us, in exercising our functions on this plan change, to take into account the principles of the Treaty of Waitangi. No issues were raised with us in reports or evidence in relation to section 8.

Section 7 directs that in achieving the purpose of the Act we are to have particular regard to certain matters which include, of relevance here, the efficient use and development of natural and physical resources; the maintenance and enhancement of amenity values; the maintenance and enhancement of the quality of the environment; and any finite characteristics of natural and physical resources. The Hearings Panel is satisfied that Plan Change 53, as amended in terms of the Hearings Panel's recommendations, will promote efficient use and development of the resources comprising the land subject to Plan Change 53; will serve to maintain and enhance amenity values; and will serve to maintain and enhance the quality of the environment. The Hearings Panel is satisfied that Plan Change 53, as amended, is necessary for enabling the better use and development of this finite land resource. There are no other matters stated in section 7 which are of any particular relevance to Plan Change 53.

Section 6 sets out a number of matters which are declared to be of national importance and directs us to recognise and provide for them. Amendments to the Structure Plan have had the effect of reallocating the eastern portion of Activity Area E1 to Activity Area D1. Activity Area E1 relates to the ONL/ONF that exists at the northern portion of Northlake, adjacent to Lake Wanaka and the Clutha River. Ms Skidmore agreed with the analysis contained in the Baxter Design Group report (Attachment B to the Request Document) that the changes sought will not result in adverse visual effects from outside the property. The Hearings Panel concurs that this is a relatively minor adjustment and notes that the land does not contain any Kanuka or any other features of natural or landscape significance. In all the circumstances the Hearings Panel has concluded that Plan Change 53 will not result in inappropriate subdivision, use and development in terms of section 6(b). There are no other matters of national importance listed in section 6 that are of any particular relevance in this instance.

Section 5 sets out the purpose of the Act – to promote the sustainable management of natural and physical resources. Taking into account the definition of sustainable management contained in section 5(2) the Hearings Panel has reached the view that on balance Plan Change 53, as amended in terms of the Hearings Panel's recommendations, will achieve the purpose of the Act.

12.0 OUTCOME

Following our consideration of Plan Change 53 and the submissions and further submissions received thereto we have concluded that submissions and further submissions should be **accepted, accepted in part or rejected** as detailed in Sections 8.1 – 8.8 of this report. The Hearings Panel has formulated its recommendations having regard to the matters to be considered in terms of section 74, the provisions of sections 32 and 32AA, to Part 2 and in particular to the purpose of the Act as set out in section 5 of the RMA. The outcome of our consideration is that we **recommend** that Plan Change 53, as amended in terms of our recommendations, should be incorporated into the Operative Queenstown Lakes District Plan.

The Hearings Panel has presented the provisions of Plan Change 53, as amended by our recommendations, at **Appendix 3** to this report.

This report incorporating our recommendations on Plan Change 53 is dated **6 September 2018**.



DAVID WHITNEY
CHAIR

For the Hearings Panel being Commissioners David Whitney and David Mead and Councillor Scott Stevens

APPENDIX 1 - List of Submitters to Plan Change 53

Those original submitters with an 'asterisk' alongside them also made a further submission.

Original submitters
Allenby Farms Limited
Birkby, Karen – WITHDRAWN
Central Land Holdings Limited *
Eastwood, Peter – WITHDRAWN
Exclusive Developments Limited
Ford, Greg – WITHDRAWN
Harry, Jo and Mark
McCauley, Michael and Eyre
Parry, Kim and Gareth – WITHDRAWN
Patrick, John – WITHDRAWN
Popperwell, Stephen
Tate, Gary
Turner, Lindsey and Thompson, Andrew - WITHDRAWN
Willowridge Developments Limited *
Further submitters, where no original submission lodged
Hellebrekers, Robyn & Paul

APPENDIX 2

Summary of Submissions and Further Submissions – Plan Change 53

Submitter Number: 02	Submitter: Gary Tate
Contact Name: Gary Tate	Email/Contact: gary@latinlink.co.nz
Address: PO Box 352 Wanaka	
Point Number: 02.1	Supported by FS-15 WDL Supported by FS-16 CLHL
Position: Oppose.	
Summary of Decision Requested: Reject the rule to increase the maximum floor area of retail activities to 2500m ² .	
Point Number: 02.2	
Position: Oppose	
Summary of Decision Requested: Reject the rule enabling the processing of fish and meat processing.	

Submitter Number: 03	Submitter: Stephen Popperwell
Contact Name: Stephen Popperwell	Email/Contact: stevetrish@xtra.co.nz
Address: 701 Aubrey Road Wanaka 9305.	

Point Number: 03.1

Supported by FS-15 WDL
Supported by FS-16 CLHL

Position: Oppose

Summary of Decision Requested:
Reject the entire plan change.

Submitter Number: 05

Submitter: Jo and Mark Harry

Contact Name: Jo Harry

Email/Contact: joharry@nzcmhn.org.nz

Address: Not provided.

Point Number: 05.1

Position: Support

Summary of Decision Requested:
Accept the change for a supermarket at Northlake.

Point Number: 05.2

Position: Oppose

Summary of Decision Requested:
Access to the commercial area is from Outlet Road with clearly marked entry points and methods to slow traffic.

Submitter Number: 06

Submitter: Willowridge Developments Limited

Contact Name: Alison Devlin

Email/Contact:
alison@WILLOWRIDGE.CO.NZ

Address: PO Box 170 Dunedin

Point Number: 06.1

Position: Oppose

Summary of Decision Requested:
Reject the increase of retail floorspace.

Point Number: 06.2

Position: Oppose

Summary of Decision Requested:
Reject the proposal to enable one retail activity of 1250m²

Submitter Number: 07

Submitter: Central Land Holdings Limited

Contact Name: Alison Devlin

Email/Contact: Alison Devlin
<alison@WILLOWRIDGE.CO.NZ>

Address: PO Box 170 Dunedin

Point Number: 07.1

Position: Oppose

Summary of Decision Requested:
Reject the increase of retail floor space.

Point Number: 07.2

Position: Oppose

Summary of Decision Requested:
Reject the proposal to enable one retail activity of 1250m².

Submitter Number: 10

Submitter: Michael and Eyre McCauley

Contact Name: Michael and Eyre McCauley

Email/Contact: memcc@xtra.co.nz

Address: 29 Mount Linton Ave.
Wanaka 9305

Point Number: 10.1

Position: Oppose

Summary of Decision Requested:

That if the plan change is allowed it should form part of the District Plan and not by way of private plan change requests.

Point Number: 10.2

Position: Oppose

Summary of Decision Requested:

The plan change request is rejected.

Submitter Number: 11

Submitter: Exclusive Developments Limited

Contact Name: Lee Brown

Email/Contact: hello@hikuwai.com

Address: 444 Aubrey Road Wanaka
9305

Point Number: 11.1

Supported by FS-15 WDL
Supported by FS-16 CLHL
Supported by FS-17 Robyn and Paul Hellebrekers

Position: Oppose

Summary of Decision Requested:

The entire plan change is rejected.

Submitter Number: 14

Submitter: Allenby Farms Ltd

Contact Name: Duncan White

Email/Contact: Duncan.White@ppgroup.co.nz

Address: PO Box 196 Wanaka

Point Number: 14.1

Position: Support

Summary of Decision Requested:

That the plan change is approved.

APPENDIX 3 – Recommended Amendments to Operative Queenstown Lakes District Plan

1. Amend Section 12:33 Northlake Special Zone – Issues, Objectives and Policies 12.33.2 Objectives and Policies by amending Policy 1.7 and Policy 2.6 and by inserting a new Policy 2.8 as follows:
 - 1.7 *To provide for small scale neighbourhood retail activities including one small supermarket to serve the needs of the local community within Activity Area D1 and to avoid visitor accommodation, commercial, retail and community activities and retirement villages within Activity Areas other than within Activity Area D1.*
 - 2.6 *To enable visitor accommodation, commercial, ~~retail and~~ community activities ~~and retirement villages~~ and limited small scale retail activities including one small supermarket within Activity Area D1 including limited areas of small scale neighbourhood retail to service some daily needs of the local community, while maintaining compatibility with residential amenity and avoiding retail development of a scale that would undermine the Wanaka Town Centre and the commercial core of the Three Parks Special Zone.*
 - 2.8 *Ensure the design and appearance of non-residential buildings is compatible with the character of the wider neighbourhood and considers variation in form, articulation, colour and texture and landscaping to add variety, moderate visual scale and provide visual interest, especially where facades front streets and public spaces.*
2. Amend Section 12.34 Northlake Special Zone – Rules as follows:
 - a. Amend Rule 12.34.2.6i Prohibited Activities as follows:
 - i. **Panelbeating, spray-painting, motor vehicle repair or dismantling, fibreglassing, sheet metal work, bottle or scrap storage, motorbody building, fish or meat processing (except if ancillary to any retail activity or restaurant), or any activity requiring an Offensive Trade Licence under the Health Act 1956.**
 - b. Amend Rule 12.34.4.1ii(b) Site Standards – Setback from Roads as follows:
 - (b) The minimum setback from road boundaries of any building within Activity Area D1 shall be 3m, except for that part of Activity Area D1 that adjoins Outlet Road, north of Mt. Burke Drive, where the minimum setback from Outlet Road shall be 7m.
 - c. Amend Rule 12.34.4.1viii Site Standards – Access as follows:
 - (a) Each residential unit shall have legal access to a formed road.
 - (b) Within Activity Area D1 no residential or non-residential activity shall have direct access to Outlet Road.
 - d. Amend Rule 12.34.4.1x(d) Site Standards – Landscaping and Planting as follows:
 - (d) On ~~residential~~ sites adjoining Outlet Road, tree planting within a 3.5 m setback from that road shall achieve 100% coverage.

Note: For the purposes of rule (d) above:

- (i) tree planting' shall consist of species that will be higher than 1.5 at maturity spaced at a maximum of 5m between centres of trees.
 - (ii) planting shall be completed within 12 months of Code of Compliance certification of a building on the site in accordance with the Building Act 2004.
 - (iii) this rule shall not apply to Activity Area A.
 - (iv) This rule shall not apply to Activity Area D1 to the west of Outlet Road where roadside landscaping along Outlet Road shall consist of:
 - a. A 1.1 metre high post and rail fence that shall be located at the top of the batter slope that extends generally parallel to and 6m back from Outlet Road.
 - b. A Grisilinea hedge that shall be planted behind the fence and maintained to a minimum height of 1.5m
- e. Amend Rule 12.34.4.2iv(a) Zone Standards – Building Height as follows:
- (a) Flat sites

Where all elevations indicate a ground slope of less than 6 degrees (approximately 1:9.5), then the maximum height for buildings shall be:

 - 8.0m for residential activities within Activity Areas A, B1 – B5, and C2 – C4;
 - 5.5m in Activity Area C1;
 - 10.0m for activities within Activity Area D1 (provided that buildings within 40m of the legal boundary of Outlet Road north of Mt. Burke Drive shall be no more than 2 levels),

...
- f. Amend Rule 12.34.4.2viii Zone Standards – Retail as follows:
- viii Retail**
- (a) No retail activity shall occur within the Northlake Special Zone except in Activity Area D1.
 - (b) No retail activity shall have a gross floor area exceeding 200m² except for one activity which may have a maximum gross floor area of 1,250m² being limited to a small supermarket on Lot 1005 DP 515015 or Lot 1006 DP 515015.
 - (c) The total amount of retail activity floor area within the Northlake Special Zone (excluding a small supermarket established pursuant to (b)) shall not exceed a gross floor area of 1000m².
- g. Delete the existing Northlake Structure Plan on page 12-383 of the Operative District Plan and insert the Replacement Northlake Structure Plan (attached) instead.
3. Delete from Section 15 Subdivision, Development and Financial Contributions Rule 15.2.16.3 Zone Subdivision Standard – Northlake Special Zone – Community Facilities.
4. Amend Section 18.2 Signs – Rules as follows:
- a. Amend Activity Table 1 – Commercial Areas as follows:

Corner Shopping Centre Zone and Northlake Special Zone – Activity Area D1

b. Amend Activity Table 2 – Residential Areas as follows:

Quail Rise, Meadow Park, Northlake (except Activity Area D1) &
Shotover Country

Note: For the provisions presented above deletions are struck out and insertions are underlined.

Northlake Structure Plan



REFERENCE: 0734 - 1605 SCALE: 1:8000 A1.A3 - 22 OCTOBER 2017

NORTHLAKE WANAKA PROPOSED STRUCTURE PLAN

Replacement Structure Plan