

BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH

I MUA I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI

Decision No. [2020] NZEnvC 205

IN THE MATTER	of the Resource Management Act 1991
AND	of two appeals under s120 of the Act
BETWEEN	GRAEME MORRIS TODD, JANE ELLEN TODD AND JOHN WILLIAM TROON  (ENV-2019-CHC-108)  MICHAEL CAMERON BRIAL AND EMILY JANE O'NEIL BRIAL  (ENV-2019-CHC-114)  Appellants
AND	QUEENSTOWN LAKES DISTRICT COUNCIL  Respondent
AND	S AND S BLACKLER, B AND K BLACKLER AND TRUSTEES BFT LIMITED  Applicant

Court: Environment Judge J J M Hassan  
Environment Commissioner M C G Mabin

Hearing: at Queenstown on 2 June 2020

Appearances: G M Todd and B B Gresson for G Todd, J Todd and J Troon  
J M G Leckie for M & E Brial  
Z T Burton for the respondent  
P E M Walker for the applicant

Date of Decision: 11 December 2020

Date of Issue: 11 December 2020

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**INTERIM DECISION OF THE ENVIRONMENT COURT**

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- A: On the matters addressed in this decision, the proposal satisfies the requirements of the Act.
- B: A teleconference will be convened for the making of case management directions as to the remaining issues for determination.
- C: Costs are reserved.

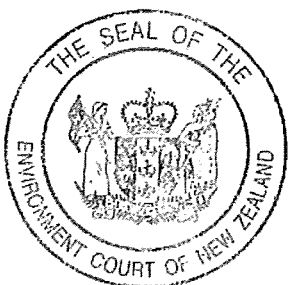
## REASONS

### Introduction

[1] These RMA<sup>1</sup> appeals are against a decision<sup>2</sup> of the Queenstown Lakes District Council ('QLDC') to grant resource consent for a two-lot subdivision and associated activities<sup>3</sup> at a site ('subject site') on Slopehill Road, Wakatipu Basin, in rural Queenstown.<sup>4</sup> The consent applicants ('Blackler')<sup>5</sup> own the site. The appellants ('Todd'<sup>6</sup> and 'Brial')<sup>7</sup> are adjoining neighbours and seek that consent be declined.<sup>8</sup>

[2] The appeals allege that the proposal has unacceptable effects on landscape values and rural amenity values and is contrary to related objectives and policies. This interim decision determines those community scale issues, leaving aside at this stage the various other grounds of appeal concerning how the proposal would impact on the appellants more directly as neighbours. This staged approach is according to case management arrangements made in discussion with the parties in view of COVID-19 pandemic restrictions. The court is mindful that, due to heavy competing pressures on

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- <sup>1</sup> Resource Management Act 1991.
- <sup>2</sup> The decision was made by Commissioner Wendy Baker under delegated authority pursuant to s34A of the RMA 1991 on 19 June 2019
- <sup>3</sup> Creation of two allotments with associated access, the identification of residential building platforms on each lot with associated access, landscaping and earthworks, and the cancellation of consent notice 936464.2.
- <sup>4</sup> The site is legally described as Part Lot 2 Deposited Plan 26174 held in Record of Title OT18D/61. The consent application is numbered RM181560 in QLDC's registry of consent applications.
- <sup>5</sup> S and S Blackler, B and K Blackler and Trustees BFT Limited.
- <sup>6</sup> Graeme Morris Todd, Jane Ellen Todd and John William Troon.
- <sup>7</sup> Michael Cameron Brial and Emily Jane O'Neil Brial.
- <sup>8</sup> There are no other parties to the appeal. William Scott Miller, Robert Keith Miller & Kay Louise Miller as Trustees of the Miller Family Trust joined the Todd appeal under s274, RMA but later withdrew their interest.



court resources, this decision has issued somewhat later than anticipated and regrets any consequential inconvenience this has caused.

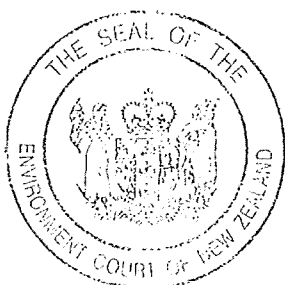
### The planning context and site and environs

[3] The subject site is gently undulating and terraced rural land some 8.4453 ha in area and is to the edge of the Wakatipu Basin. It sits below the northwest flanks of Slope Hill, some 800m from its peak. Slope Hill is some 625m above sea level. It is locally prominent, rising some 220m above the surrounding foothills, and is an 'Outstanding Natural Feature' ('ONF') under the Queenstown Lakes District Plan ('Plan'). The landscape experts agree, however, that the site is not within the Slope Hill ONF.<sup>9</sup>

[4] The Plan is progressing through a substantial review and, as we explain, that is an important contextual element in the consideration of the appeals. In particular, under a variation notified for the reviewed plan ('PDP') the 'Rural General' zoning for the Wakatipu Basin (of which the site is part) would be replaced by a bespoke Wakatipu Basin Rural Amenity zoning with stringent controls on subdivision and development. This is in order to protect against further loss of the Basin's landscape character and rural amenity values. The variation was underpinned by the Wakatipu Basin Land Use Planning Study (2017) ('2017 Study').

[5] Landscape character and rural amenity values are acknowledged, to some extent, in the ODP by way of a 'Visual Amenity Landscape' ('VAL') overlay. However, on the basis of work reported in the 2017 Study, the PDP maps the Basin into several 'landscape character units' ('LCUs') whose values are described in Sch 24 to the PDP. The site is within what is denoted LCU 11 which pertains to some 566 ha of land in the vicinity of the Slope Hill foothills.

[6] By contrast to neighbouring land, the site is largely undeveloped. It has a generally undulating and terraced form, rising some 28m from west to east, and its vegetation predominantly consists of exotic grasses, tussock and weeds. It is incised by a steep sided central gully that contains an intermittently flowing watercourse, and some self-seeded native shrubs and grasses.<sup>10</sup>



<sup>9</sup> Joint Witness Statement, Landscape ('JWS Landscape') filed 1 November 2019.

<sup>10</sup> B Blackler evidence-in-chief ('EIC') at [17], A Leith EIC at [13]-[14].

[7] The site fronts and is accessed via Slopehill Road approximately 500m to the northeast of Lower Shotover Road/Slopehill Road intersection.<sup>11</sup> Slopehill Road provides connection to the popular Queenstown Trail 'Countryside Ride' cycling and pedestrian trail. It also provides vehicular access to several properties, including the Todd property. Most properties in the vicinity are attractively landscaped rural residential homesteads, ranging between 1.0 – 10 ha in area.<sup>12</sup> The Todd property is at 122 Slopehill Road to the immediate west of the site. The Brial property is at 212 Lower Shotover Road, to the south of the site.

### The proposal

[8] The site would be subdivided into two allotments, each with an identified building platform. Lot 1 of some 4.08 ha would be to the west of the gully. Lot 2 of some 4.3557 ha would encompass the remainder of the site, including the gully and shared accessway.<sup>13</sup> That accessway from Slopehill Road would run along the present driveway alignment before splitting to provide a separate branch to Lot 2.<sup>14</sup>

[9] Earthworks are designed to mimic the existing natural landform patterns.<sup>15</sup> Residential building platforms would be positioned on the middle and lower slopes of the site some 182m and 282m from the road and 75m and 109m from neighbours.<sup>16</sup> Each platform would have a 1,000m<sup>2</sup> curtilage area within which all domestic landscaping and structures would be confined.<sup>17</sup> These areas are identified on the subdivision plan. Building coverage would be restricted to 45% of each curtilage area (i.e. 450m<sup>2</sup>).<sup>18</sup> Building height would be limited to 6m.<sup>19</sup> Buildings would be recessively clad and coloured.<sup>20</sup> An existing consent notice (936464.2) imposed as part of an earlier resource consent would be cancelled. It limits the number and positioning of any future dwellings on the site.

11 A Leith EIC at [11].

12 S Skelton EIC Attachment C.

13 Leitch EIC at [7].

14 Skelton EIC at [31].

15 Skelton EIC at [32].

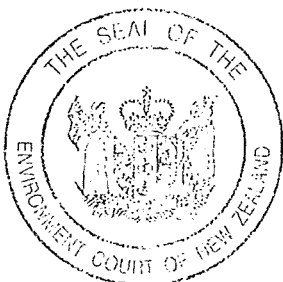
16 Skelton EIC, Attachment D.

17 Including but not limited to clothes lines, outdoor seating areas, external lighting, swimming pools, tennis courts, play structures, vehicle parking, pergolas and ornamental or amenity gardens and lawns pursuant to proposed subdivision consent condition 17(k).

18 Proposed subdivision consent condition 17(d).

19 Proposed subdivision consent condition 17(b) and (c).

20 Skelton EIC at [38].



[10] To further assist visual absorption, the proposed landscape plan includes dense planting of indigenous vegetation along the finished slopes behind the building platforms. The planting design also includes medium stature shrubs and a hornbeam hedge south of the proposed Lot 2 building platform. Other groups of rural character trees are proposed on the periphery of the site and south of the Lot 1 building platform. Pin Oaks would form an avenue to the building platforms, although some of these have been removed from the plan to avoid interference with the outlook and views enjoyed from the Brial property. To provide screening for the Brial property against vehicle movement and headlight spill, the planting plan includes Hornbeam hedging along parts of the accessway.<sup>21</sup> All planting on site would be required to be implemented following completion of the earthworks and prior to deposit of the survey plan for title under s224(c), RMA.<sup>22</sup> The gully would be subject to an environmental management plan for eradication of weeds, planting of appropriate indigenous riparian species and prevention of grazing.<sup>23</sup>

### Statutory framework

[11] The proposal is a discretionary activity.<sup>24</sup> Hence, we may grant or refuse the consents sought and impose conditions in any grant (ss 104C and 108 RMA). We have the power to cancel the consent notice as a matter included in the application the subject of appeal.<sup>25</sup> We have the same decision-making powers, duties and discretions as QLDC had in its first instance decision. We must have regard to that decision.<sup>26</sup> Section 104 prescribes various matters that we must or may have regard to. These include:<sup>27</sup>

- (a) the proposal's actual or potential environmental effects; and
- (a) relevant ODP and PDP provisions.

[12] We must have regard to those matters subject to pt 2, RMA. That includes ss 6(b) and 7(c) as follows:

<sup>21</sup> B Blackler EIC at [36]; Skelton EIC at [32].

<sup>22</sup> Leith rebuttal at [12]; proposed subdivision consent condition 13(j).

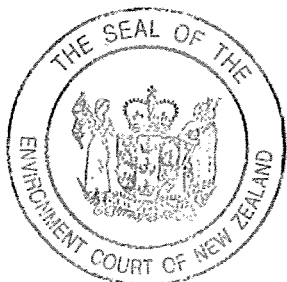
<sup>23</sup> Skelton EIC at [32]; proposed subdivision consent condition 17(j).

<sup>24</sup> The status of the activity is discretionary under the ODP and non-complying under the PDP. The applicant applied for resource consent prior to the notification of the decisions on Stage 2 of the Plan review (which incorporates Ch 24 on the Wakatipu Basin). Because of that timing the application remains a discretionary activity pursuant to s88A of the RMA.

<sup>25</sup> Sections 290, 221, RMA.

<sup>26</sup> Sections 290(1), 290A, 104B RMA.

<sup>27</sup> We note that none of the provisions of the operative Otago Regional Policy Statement ('RPS') and the proposed regional policy statement ('pRPS') are significant in the determination of the issues. Nor are there any relevant national policy statements or other instruments of the type specified in s104(1)(b) RMA.



## 6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

## 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

...

- (c) the maintenance and enhancement of amenity values:

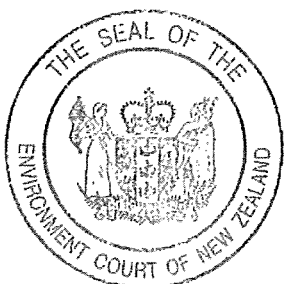
[13] According to the approach of the Supreme Court in *King Salmon*,<sup>28</sup> we apply ss6(b) and 7(c) by reference to related ODP and PDP objectives, policies and assessment matters.

[14] Section 6(b) is in issue because of the proximity of the site to Slope Hill ONF. Section 7(c) is relevant because the proposal is in an area recognised by both the ODP and PDP as having related landscape and visual amenity values. In particular, as noted, the site is within the ODP's VAL and the PDP's LCU 11.

## Issues

[15] On the evidence and submissions, the determinative issues for this interim decision can be summarised as follows:

- (a) how does the PDP's policy that "an 80 hectare minimum net site area be maintained within the Wakatipu Basin Rural Amenity Zone" bear on consideration of the proposal?
- (b) is the site too close to the Slope Hill ONF and would it adversely impact on its landscape values?
- (c) would the proposal materially impact on other landscape values or public



<sup>28</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

amenity values particularly as associated with the ODP's VAL and/or the PDP's LCU 11?

### The PDP's 80 ha minimum net site area regime

[16] Under the ODP's Rural General Zone and related subdivision controls, there is no minimum allotment size.<sup>29</sup>

[17] By contrast, minimum lot size controls are central to the design of the PDP's Ch 24 for the Wakatipu Basin. Ch 24 was included in the PDP by variation following the undertaking of the 2017 Study.

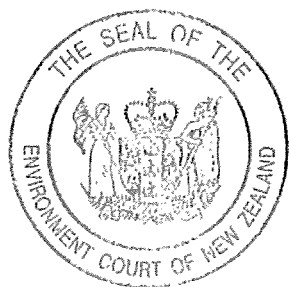
[18] By way of background, while the Wakatipu Basin had a Rural zoning and VAL overlay under the ODP, it has experienced significant incremental residential subdivision and development over several decades. According to the 24.1 Zone Purpose, Ch 24 seeks to "maintain and enhance the character and amenity of the Wakatipu Basin". It further explains:

Schedule 24.8 divides the Wakatipu Basin into 23 Landscape Character Units. The Landscape Character Units are a tool to assist identification of the particular landscape character and amenity values sought to be maintained and enhanced. Controls on the location, nature and visual effects of buildings are used to provide a flexible and design led response to those values.

...

While the Rural Amenity Zone does not contain Outstanding Natural Features or Landscapes, it is a distinctive and high amenity value landscape located adjacent to, or nearby to, Outstanding Natural Features and Landscapes. There are no specific setback rules for development adjacent to Outstanding Natural Features or Landscapes. However, all buildings except small farm buildings and subdivision require resource consent to ensure that inappropriate buildings and/or subdivision does not occur adjacent to those features and landscapes.

[19] That purpose is reflected in Obj 24.2.1, as to maintaining or enhancing the landscape character and visual amenity values of the zone. Minimum lot size controls for subdivision are central to that purpose. Those controls include rules in Ch 27 on Subdivision & Development.



<sup>29</sup> A Woodford, will say statement at [13].

[20] The controls are comparatively less restrictive within an area denoted the 'Wakatipu Basin Lifestyle Precinct' than for land outside that Precinct. We understand that reflects the greater risk that subdivision outside the Precinct poses for landscapes, including ONF/Ls<sup>30</sup> that border the Basin.

[21] The subject site is outside the Precinct. As such, Pol 24.2.1.1 applies to it and gives this direction:

Require an 80 hectare minimum net site area be maintained within the Wakatipu Basin Rural Amenity Zone outside of the Precinct.

[22] As for the meaning of 'net site area', Ch 2, PDP includes the following definition:

Net Area (Site or Lot) Means the total area of the site or lot less any area subject to a designation for any purpose, and/or any area contained in the access to any site or lot, and/or any strip of land less than 6m in width.

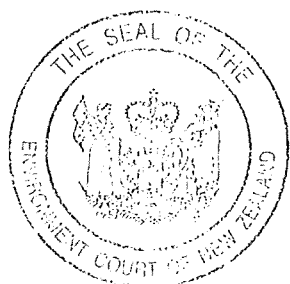
[23] The subject site is one of many in the Basin that are already less than 80 ha in area. At least for those sites, any subdivision would inherently conflict with Policy 24.2.1.1.

[24] Subdivision rules to achieve Obj 24.2.1, Pol 24.2.1.1 and related objectives and policies are in Ch 27 Subdivision and Development. Table 27.6 'Rules – Standards for Minimum Lot Areas' specifies an 80 ha minimum lot area for subdivision and related r 27.6.1 specifies:

No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, an average net site area less than the minimum specified.

[25] Rule 27.5.19 specifies that a subdivision that does not comply with that 80 ha minimum lot standard is a non-complying activity. However, as noted, that rule does not apply in this case, in view of the timing of lodgement of the consent application. Rather, the subdivision is a discretionary activity.

[26] For completeness, in Table 24.5 'Rules – Standards', rr 24.5.1.4 and 24.5.1.5



<sup>30</sup> ONF/L refers to Outstanding Natural Features and/or Outstanding Natural Landscape.



accord non-complying status to residential activities that contravene either of the following standards:

- Any site in the Wakatipu Basin Rural Amenity Zone located wholly outside the Precinct in respect of which the Computer Freehold Register for the site was issued before 21 March 2019 and with an area less than 80 hectares, a maximum of one residential unit per site.
- For that part of all other sites in the Wakatipu Basin Rural Amenity Zone wholly located outside of the Precinct, a maximum of one residential unit per 80 hectares net site area.

[27] Those controls further reflect a policy intention to maintain and enhance the character and amenity of the Wakatipu Basin. The overall emphasis is on stopping any further decay of those landscape values and, indeed, to achieve some remediation on the status quo.

[28] Therefore, the planning witnesses properly describe the PDP regime as denoting "a significant shift in policy".<sup>31</sup>

[29] The assignment of non-complying activity status to subdivisions that would result in lots with a net area less than 80 ha does not make such subdivision inherently unconsentable. However, that activity classification in conjunction with Pol 24.2.1.1 effectively demands, as a prerequisite to consentability, **that the subdivision would at least protect any ONL or ONF values and maintain, if not enhance, other landscape and rural amenity values.**

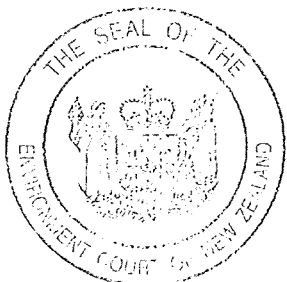
[30] That is because the combined effect of Obj 24.2.1 and Pol 24.2.1.1 is that any non-complying subdivision would be capable of negotiating the threshold test in s104D only if it can demonstrate that it would meet the requirements of s104D(1)(a), i.e.:

the adverse effects of the activity on the environment ... will be minor.

[31] Being satisfied that a proposal would not degrade ONF/L values or relevant LUC landscapes or rural amenity values would be necessary given the purpose of Ch 24 as expressed in the 24.1 Zone Purpose, and expressed through Obj 24.2.1 and Pol 24.2.1.1 and related objectives and policies.

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<sup>31</sup> Joint Witness Statement, Planning ('JWS Planning') dated 22 November 2019.



[32] Given the clear direction in Pol 24.2.1.1, non-complying subdivisions would generally struggle to satisfy the alternative threshold test in s104D(1)(b), i.e. that the proposed activity would not be contrary to relevant objectives and policies. Pol 24.2.1.1 can be expected to have such influence given its fundamental importance to the design purpose of Ch 24.

[33] The close scrutiny that Ch 24 demands of subdivisions that do not maintain an 80 ha minimum lot size would extend to matters such as the suitability or otherwise of their location, their scale, intensity and design. It would extend also to consideration of the cumulative effect of granting the subdivision.

[34] In addition to being satisfied the subdivision was consentable in those terms, it can be expected that close attention would also be paid to whether granting consent would uphold or undermine the integrity of the Wakatipu Basin Rural Amenity Zone.

[35] The independent commissioner found that the 80 ha regime of the PDP ought not to be accorded significant weight.<sup>32</sup> The joint witness statement for the planners records agreement with that finding. In essence, that is in view of the breadth of relief pursued in PDP appeals against the 80 ha regime.<sup>33</sup>

[36] Ms Walker for Blackler and Ms Burton for QLDC concur with the planners' position.<sup>34</sup> Ms Walker also notes that QLDC did not seek to have its rules take immediate effect by an application to the Environment Court under s86D(3). For Brial and Todd, counsel submit that the fact that the 80 ha regime represents a significant change in policy weighs in favour of giving this aspect of the PDP significant weight in terms of issues of plan integrity.<sup>35</sup>

[37] We are guided by *Keystone Ridge Limited v Auckland City Council* and *Mapara Valley Preservation Society Inc v Taupo District Council*<sup>36</sup> on relevant principles. As

<sup>32</sup> Decision of the QLDC by Commissioner Baker, dated 19 June 2019 at [48].

<sup>33</sup> JWS Planning dated 22 November 2019. There are 735 on the Chapter 24 Wakatipu Basin and approximately 8 appeals on Rule 24.5.1.4 that requires a minimum lot size of 80 ha within the WBRAZ; A Woodford will say statement at [7]-[11].

<sup>34</sup> QLDC's closing submissions, [2.8]-[2.10].

<sup>35</sup> Todd closing submissions at [20]-[22], Brial closing submissions at [26].

<sup>36</sup> *Keystone Ridge Limited v Auckland City Council*, AP24/01 at [16] and [36]; *Mapara Valley Preservation Society Inc v Taupo District Council* A083/07 at [39].



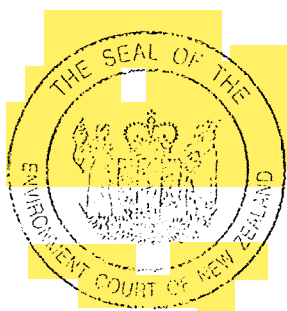
such, we consider the extent of the intended policy shift and its implications, the extent to which that policy shift is at large in appeals, and the rights and interests of the parties before us.

[38] On these matters, we note that Pol 24.2.1.1 is not confined to non-complying activities. Rather, on its face, it is relevant despite the proposal remaining a discretionary activity. Furthermore, s104(1)(b) allows for broad discretion as to the weighting to be given to this policy in that it broadly directs that regard be given to “any relevant provisions” including of the PDP.

[39] Substantially, Ch 24 seeks to make a strategic policy shift in regard to the control and management of subdivision within the Wakatipu Basin. That is in order to prevent further degradation of its landscape and other rural amenity values and, to some extent, help restore those values. In terms of the Supreme Court’s analysis in *King Salmon*, Ch 24 seeks to give new policy direction for the purposes of ss 6(b) and 7(c), RMA specific to the context of the Wakatipu Basin. The non-complying activity status rules in Ch 27 are just one aspect of this new approach. Therefore, the fact that QLDC did not seek an order to have the related non-complying activity rule come into immediate effect is not significant to the issue of weighting. In essence, QLDC did not need to do so because relevant policies remain to be considered, and given due effect, even for discretionary activities.

[40] Given the purpose of Ch 24, we find that the importance of giving its policy intentions in regard to minimum lot sizes is overwhelming. That is not diminished by the fact that some appeals essentially seek that this policy shift be reversed or substantially softened. Rather, if in due course such appeals are successful, little if anything is lost by giving Ch 24 significant weight in the meantime. That is the case even for Blackler, in that the net result is that the subdivision remains discretionary, albeit that it would be subjected to much more rigorous scrutiny. On the other hand, an approach of treating the ODP regime as essentially deserving of greater weight potentially compromises the fundamental intentions of Ch 24.

[41] For those reasons, we give significant weight to the shift in policy reflected in the PDP’s 80 ha minimum net site area regime. In essence, that means that we fully test the proposal for compatibility or otherwise with all PDP objectives and policies and ascribe contrary ODP objectives and policies relatively little weight or influence. In a relative sense, we find that weighting should prefer the policy intentions of the PDP over those of



the ODP. That includes being satisfied that, on its own and in a cumulative effects sense:

- (a) the site would not be adjacent to the Slope Hill ONF and the proposal would protect the associated landscape values;
- (b) the proposal would at least maintain the particular landscape character and amenity values of LCU 11; and
- (c) in those and other respects, granting consent would maintain the integrity of the Ch 24 zone purpose.

### Planning framework for the assessment of effects

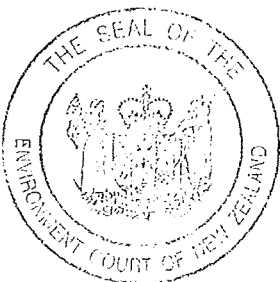
[42] The planning experts identified relevant ODP and PDP objectives, policies and assessment matters.<sup>37</sup> We have considered those provisions but focus on those that give relevant direction on the matters in issue. These are summarised in the Annexure. Our evaluation of the proposal with reference to them is at [90]-[92]. Also in the Annexure for reference is the PDP map of Wakatipu Basin LCUs, including LCU 11 and an extract from Sch 24.8 setting out its description of LCU 11's landscape values and related attributes and other matters.

[43] For completeness, we evaluate the various ODP and PDP provisions by reference to their statutory purposes. In particular, objectives set relevant district priorities for pt 2, RMA. Those objectives are served by implementing policies. Both objectives and policies are served by implementing assessment matters (as a form of rule) (ss 75, 76(1), RMA).

### Evidence as to effects on ONF and other landscape and visual amenity values

[44] We heard evidence from two landscape experts, Messrs Stephen Brown and Stephen Skelton. Each has considerable experience in the district. After their evidence was tested, we undertook a site visit according to an itinerary proposed by the parties, to view the site and its setting from key public vantage points. We reported on that site visit

<sup>37</sup> These are as set out in the statements of evidence of Amanda Leith (called by Blackler), Kay Panther Knight (called by Brial) and Andrew Woodford (called by QLDC) and related expert conferencing statements. In particular, we refer to their additional JWS – Planning dated 2 June 2020. For the ODP, these include provisions in sections 4 (District Wide), and 5 (Rural Area). Other ODP provisions in sections 15 (Subdivision & Development), and 22 (Earthworks) are not directly relevant to landscape and visual matters and are not addressed in this interim decision. For the PDP, these include Chapters 3 (Strategic Directions), 6 (Landscape and Rural Character), 24 (Wakatipu Basin), 25 (Earthworks) and 27 (Subdivision and Development).



prior to closing submissions.

***Preliminary matters as to the scale of allowable buildings under the proposal***

[45] One underpinning of the landscape experts' opinions is their understandings of the proposal itself.

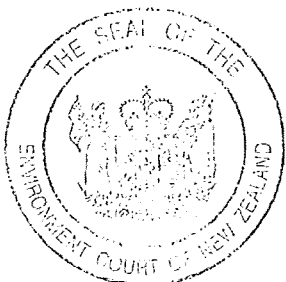
[46] Mr Brown's visual effects' assessment includes a photographic montage that includes the transposition onto the site of two grey and white boxes intended to represent a close up view "showing proposed building envelopes".<sup>38</sup> He explained that this depiction was on the basis of the poles that the surveyors had set up on site (and which remained in situ at the time of our site visit). When cross-examined by Ms Walker, Mr Brown explained that his photomontage "represents the building platform that was located on site by the surveyors who were instructed to, I think establish two 450 square metre building platforms". He calculated this as totalling 900m<sup>2</sup>.<sup>39</sup>

[47] Mr Brown is correct in his assumptions concerning the building platform areas, but mistook the poles to depict this. In fact, and as Mr Skelton correctly understood, the poles depicted two 1,000m<sup>2</sup> curtilage areas within which the 450m<sup>2</sup> building platforms would be located.<sup>40</sup> This error is significant in that it would tend to lead to an overstatement of true visual effects. This would appear to have been most significant for Mr Brown's assessment of visual effects for near views.

***Approach of experts to visual effects' assessment***

[48] The landscape experts' analyses is also underpinned by their analyses of the extent to which the proposal would be visible from relevant distances. They agreed on a set of representative public viewpoints for three relevant perspectives:

- (a) **long distance views:** Coronet Peak Road and other views beyond the Basin, including from Tuckers Beach.
- (b) **middle distance views:** more or less from within the Wakatipu Basin; and
- (c) **near views:** close to the site, such as for users of the public cycling trail and



<sup>38</sup> Brown EIC atch 23.

<sup>39</sup> Transcript, p 39, l 18-29.

<sup>40</sup> Skelton EIC at [8].

residents of and travellers along Slope Hill Road.

***Long distance views***

[49] We can briefly address why we find there are no significant effects for long distance views. The experts agree that these would have a very low or low visual impact.<sup>41</sup> That is confirmed by our site visit. We find the proposal would have no significant impacts for long distance views.

***Middle-distance views***

[50] For each viewpoint considered in isolation, the experts essentially agree that any visual effects of the proposal would be minor. Mr Brown says:<sup>42</sup>

In views from such locations as the intersection of Dalefield and Little Road ... Domain Road ... Birchwood Road ... and Korimako Lane, the proposal would only be partially visible. Consequently, the effects associated with such visual interaction would be of a lesser order, at least in relation to the individual vantage points concerned.

[51] However, Mr Brown then aggregates each individual middle-distance viewpoint to derive his assessment that the visual effect of the proposal from middle-distance viewpoints would be moderate overall.<sup>43</sup> Mr Skelton considers it is unsound to aggregate results in this way and, in any case, is satisfied that the effects for middle-distance views would remain low.<sup>44</sup> Their differences are summarised in their JWS as follows:<sup>45</sup>

7 Public effects

...

Mr Brown considers that the effects on the public domain relate less to a high level of impact on any one vantage point and more to the cumulative effects arising from exposure to the proposed houses from multiple viewpoints.

Mr Skelton does not agree with this and considers that such effects would be very low.

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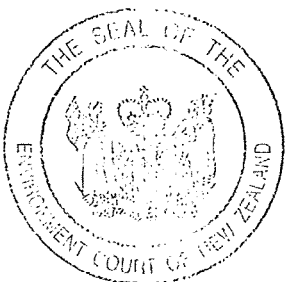
<sup>41</sup> Brown EIC at [61]; Skelton EIC at [61].

<sup>42</sup> Brown EIC, at [69].

<sup>43</sup> Brown EIC at [71], JWS Landscape at [7].

<sup>44</sup> Skelton EIC at [60]-[64].

<sup>45</sup> JWS Landscape at [7].



[52] Mr Brown properly points out that views and appreciation of the Slope Hill landscape are “not fixed” but, rather dynamic in the sense that people move about their properties and the road network. He observes that locals were well familiar with how development is pressing up against the “open flanks” of Slope Hill and comments that it would not take long for them to notice the Blackler development as aggravating that. He concludes that the visual effect from middle-distance viewing points would be contrary to what LCU 11 intends.

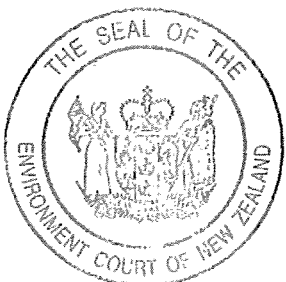
[53] With respect, we find Mr Brown’s conclusion of moderate visual effects significantly overstates what a reasonable viewer would likely experience, even accounting for accumulative viewing impressions.

[54] We accept that road users would frequently take a single journey along Dalefield Road and Domain Road and through the junction of Domain Road and Littles Roads. Other combinations of accumulative viewing experiences can be anticipated, depending on a range of factors such as where a viewer lives and, for travelling viewers, where they are travelling from or to.

[55] However, our site visit confirmed as sound the essential consensus of the experts that the visual effects for each selected viewpoint along these roads would be very low.

[56] The Dalefield Road viewpoint is at an “S” bend some 0.86 km northwest of the junction with Littles Road. It is at a section of steep grade and narrow cross-section requiring close attention by a road user. Given those road safety challenges, it offers no more than a brief glimpse opportunity of the Slope Hill environs. A stationary viewer could observe the Slope Hill environs for longer, but this is a less-than-desirable stopping point in road safety terms. The Domain Road viewpoint is similarly fleeting for road users, albeit on a straight stretch. Stationary views are also partially obscured. The viewpoint at the junction of Dalefield and Littles Roads is at a lower elevation. We observed the site as only partially visible in between and just above numerous trees.

[57] Any view of the proposed dwellings would be highly confined and certainly brief for a road user. Any glimpse would be of a minor addition to the existing cluster of residential dwellings and noticeably more removed from Slope Hill than some of them. We infer that the position would not be materially different for someone viewing the site and environs from stationary viewpoints.



[58] Given that none of these viewpoints offer any more than a brief and obscured glimpse of the general locality of the site, we do not accept as credible Mr Brown's aggregation to derive a moderate effect. In reality, separately or together, none give rise to anything approaching that.

[59] Other viewpoints identified by Mr Brown are not from well-used public roads or areas. The viewing impact is marginally greater than in the more trafficked areas, but still low and for a smaller catchment of likely viewers. Similarly, any view would be of a minor addition to the existing residential cluster.

[60] We are satisfied that the selected viewpoints are properly representative of what a viewer would typically experience.

[61] Therefore, in light of our site visit, we prefer Mr Skelton's opinion and find that the proposal would not have any significant visual effects for middle-distance viewpoints.

[62] As for Mr Brown's opinions on how visual impacts sit with public expectations, the proper benchmark is the policy setting in the PDP including in LCU 11. As such, we refer to our findings at [90]-[92].

### ***Near views***

[63] Near views of the site are spatially separated from the middle and long-distance views, due to the intervening topography, vegetation and other viewing obstructions. Slopehill Road is about 1.5 km long and the site is located about half-way along. Viewpoints, whether for motorists, pedestrians or cyclists, occur along the south side of the road. The whole site directly fronts Slope Hill Road for 220m. Mr Skelton considers that the proposal may be visible from vantage points along that road for approximately 415m. Having observed the height poles on our site visit, our impression is that the viewable distance along Slope Hill Road would be less than that, but we accept Mr Skelton's estimate for our purposes.

[64] Mr Brown explains that the Queenstown Cycle Trail "affords the most direct connection between central Queenstown and Arrowtown" and also connects to the national Te Araroa Trail. He observes that many locals would use the road and trails regularly. He also comments that Slope Hill Road is appreciated by tourists and visitors





as an integral part of the trails' circuit. He considers that the new dwellings of the proposal would be "starkly apparent" in the foreground of views of Slope Hill.<sup>46</sup>

[65] By contrast, Mr Skelton, as the author of the proposal's landscape design, is satisfied that the design and location of the building platforms is appropriate for maintaining a sense of openness across the site. He sees no need for further screening or buffering for the intended dwellings.<sup>47</sup>

[66] We find Mr Brown's characterisation of a "starkly apparent" impact somewhat exaggerated. As we have noted, he miscalculated the true extent of the two building platforms.

[67] However, we find both landscape experts have given a sufficiently accurate assessment of the extent of visual change that would occur for near views. We accept that Slopehill Road serves both the properties that front it and as part of the popular Queenstown Cycle Trail. As such, we consider visibility effects as extending to this wider community of interest. We find that the intended dwellings and related site works as proposed would be clearly visible for users of Slopehill Road for a significant distance of the road, in the order of 415m or somewhat less. There would be a clearly apparent change from what is seen now. However, that is in a context of the already-established rural residential dwellings along the flanks of Slopehill Road and, in some cases, at a higher elevation closer to Slope Hill than the proposal.

***The experts' opinions on associated landscape and visual amenity effects***

[68] As noted, there are different dimensions to consider, namely as are associated with:

- (a) the Slope Hill ONF; and
- (b) the ODP's VAL and PDP's LCU 11.

[69] Mr Skelton considers the site sufficiently separate from the Slope Hill ONF so as to not bring s6(b) RMA and related objectives and policies into play. As part of informing that opinion, he calculated the extent of horizontal and vertical separation between the

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<sup>46</sup> Brown EIC at [73].  
<sup>47</sup> Skelton EIC at [33]-[37].



site and the boundary of the ONF. He explains that the peak of Slope Hill is some 800m from and 210m above the proposed building platforms.<sup>48</sup> Furthermore, he considers the fact that there are already 15 existing dwellings between the site and the ONF provides proper contextual separation.<sup>49</sup> As to this aspect, he considers the two proposed dwellings would fill “the gap” or insert the “missing tooth” [or perhaps “teeth”] of rural living in this part of the landscape”.<sup>50</sup>

[70] Mr Brown did not challenge Mr Skelton’s calculations as to horizontal and vertical separation from Slope Hill. However, he variously describes the site as adjacent<sup>51</sup> to the ONF, reasonably close to its core<sup>52</sup> and in the vicinity of the ONF.<sup>53</sup> He also interprets the proposal and its relationship to existing dwellings in the vicinity in entirely different terms. His overall opinion can be summarised by the following extracts.<sup>54</sup>

12. Focusing on the ONF values of Slope Hill, it is my assessment that the Blackler’s proposal would also have an adverse effect on:

- a) Public perception of Slope Hill’s biophysical characteristics;
- b) Its legibility and perceived extent as a feature;
- c) Its expressiveness and articulation of its formative processes; and
- d) Its aesthetic character and appeal.

13. Such effects would impact on the perceived value of the ONF as whole and would exacerbate a pattern of development near, and on parts of, Slope Hill that already appears somewhat disconnected and ad-hoc in places. These effects would be significant in my assessment.

...

68. Inevitably, therefore, the proposal would exacerbate the proliferation of development across Slope Hill’s lower slopes and terraces, in direct contravention to what is envisaged for the LCU 11. In so doing, it would also compound the isolation of Slope Hill and its open grassland crown. Some of the feature’s intrinsic naturalness and expressiveness – related to the legibility of its formative processes – would also be lost in the process of such change.

...

<sup>48</sup> Skelton EIC at [50]-[51].

<sup>49</sup> Skelton EIC at [53].

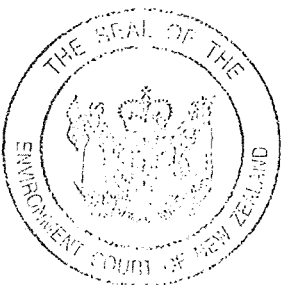
<sup>50</sup> Skelton EIC at [83], p 20, p 22 and [89].

<sup>51</sup> JWS Landscape at [1].

<sup>52</sup> Brown EIC at [26].

<sup>53</sup> Brown EIC at [10].

<sup>54</sup> Brown EIC at [12], [13], [68], [74], [76] and [77].



74. Instead of 'filling in a gap', it is my opinion that the subdivision and development would further erode key qualities associated with the sequence of views to Slope Hill from next to the [Blackler] property. This sequence is not limited to a glimpse or fleeting view; rather it is part of a continuum of views to Slope Hill that are experienced in the course of traveling up its namesake road – up and over the ridge at the top of the roadway. In my assessment, the proposed dwellings would compound the feeling of encroachment already apparent in relation to development on the edge of the hill's open crown.

...

76. In my assessment, these effects would be significant. In addition to adversely affecting views towards the hill from Slopehill Road and thus appreciably reducing both the values of the hill as a feature and the rural character of its apron, they would influence perceptions of the local environment by a much wider array of locals than just those who live on Slopehill Road. Naturally, they would also affect and impair visitors' appreciation of the local area and a key feature of its landscape.

77. To summarise, therefore, it is my assessment that the Blackler proposal would have a Moderate-High impact on the Slope Hill 'Foothills' LCU experienced from Slopehill Road and the Queenstown Trail.

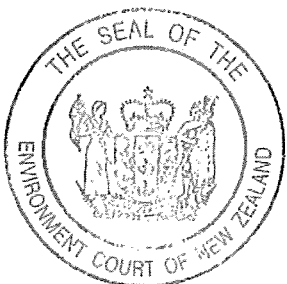
### ***The planning witnesses' related evaluations***

[71] The planning witnesses for Blackler and Brial relied on the opinions of Messrs Skelton and Brown respectively as the foundation for their divergent opinions on related ODP and PDP provisions. Similarly, our findings on those provisions draws from our evidential findings. Meaning no disrespect to either planner, therefore, it is unnecessary for us to traverse their analysis of those provisions and their related conclusions.

### ***Legal submissions***

[72] There is no substantive difference on primary principles, other than as to the weighting to be given to the PDP minimum lot size regime. Rather, submissions as to the appropriateness or inappropriateness of the proposal, in terms of pt 2 RMA (particularly ss 6(b) and 7(c)) and related ODP and PDP provisions rely upon the sustainability of the respective landscape opinions. That is:

- (a) Ms Walker for the applicant submits that the subdivision and proposed dwellings can be absorbed into the receiving environment landscape and



- the proposal is appropriate;
- (b) counsel for Brial submit that the proposal conflicts with s6(b). They submit it would have significant adverse effects on landscape character and visual amenity, including cumulative effects. Thus they contend the proposal is contrary to the majority of the relevant ODP and PDP provisions and to pt 2, RMA;
  - (c) counsel for Todd echo that position, submitting that the adverse effects of the proposal would be unacceptable and could not be sufficiently avoided, remedied, or mitigated; and
  - (d) Ms Burton for QLDC takes an essentially neutral position but submits that the issue is primarily one between disputing neighbours.

**Findings and discussion**

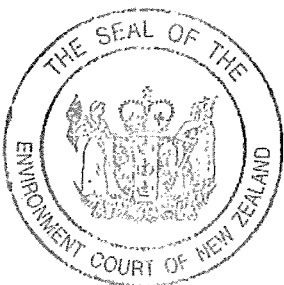
***Summary of findings as to visibility***

[73] In summary, and having regard to the form and relative density of the proposal, and its location relative to established residential dwellings on the foothills of Slope Hill, we find:

Viewpoints	Visibility
Long distance	Insignificant
Middle-distance	Insignificant
Near -distance	Noticeable change in a context of an already-established enclave of residential buildings

***Findings as to relevant landscape values***

[74] The consideration of how a proposal would affect an ONF or other identified feature or landscape is heavily judgment-laden. Much turns on what is sought to be protected. On those matters, we refer in particular to the Supreme Court’s decision in *King Salmon*,<sup>55</sup> the Court of Appeal decision in *Man O’War Station Limited*<sup>56</sup> and the discussion on those and other cases, and related principles, in *Upper Clutha Environmental Soc Inc*.<sup>57</sup> For instance, identifying values is important for understanding



<sup>55</sup> *King Salmon* at [101].  
<sup>56</sup> *Man O’War Station Limited v Auckland City Council* [2017] NZCA 24 at [86].  
<sup>57</sup> *Upper Clutha Environmental Society Inc & Ors v Queenstown Lakes District Council* [2019] NZEnvC 205, at [105]-[111].

what would effectively protect an ONF or maintain or enhance a LCU (or VAL). The ODP offers only minimal direction on these matters. The PDP does not, at this stage, specify landscape values for its ONFs. It is somewhat more helpful for LCU 11. Therefore, we draw significantly from the landscape witnesses' opinions on these matters in making our findings.

*Slope Hill ONF*

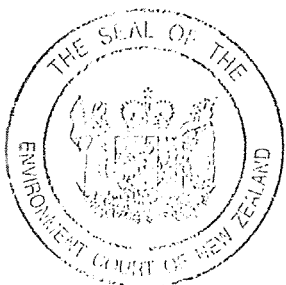
[75] Both landscape witnesses drew from the work undertaken by another landscape architect, Ms Helen Mellsop, for their identification of the relevant landscape values for Slope Hill ONF.<sup>58</sup> Ms Mellsop did this work to inform the Plan review. Her description, quoted by Mr Skelton, is:<sup>59</sup>

- (a) the *r*oches moutonnées glacial landform, with a smooth 'up-ice' slope to the south-west, and a steeper rough 'plucked' slope to the east adjacent to Lake Hayes;
- (b) the openness and pastoral character of the landform that allow the underlying formative processes to be clearly legible;
- (c) the relative lack of built form and landform modification; and
- (d) the high level of visibility of the hill from within the Wakatipu Basin, particularly from SH6 west of the Shotover River...Ladies Mile, and the Lake Hayes area. This visibility is associated with a high level of shared and recognised scenic value

[76] Both witnesses add their further observations, but these do not substantially alter what Ms Mellsop ably described.

[77] In summary, therefore, we find its significant values concern its:

- (a) highly legible glacial origins, including its smooth *r*oches moutonnées top and upper slopes;
- (b) predominant pastoral open character, largely devoid of buildings and other landform modifications; and
- (c) high visibility and prominence, including in its framing of the foothills and Basin.



<sup>58</sup> Brown EIC at [40]-[41].

<sup>59</sup> Skelton EIC at [46] quoting from Ms Mellsop's evidence for "Hearing Stream 14" for QLDC's hearing of submissions in the plan review.

*PDP LCU 11 Slope Hill foothills – landscape values*

[78] Messrs Skelton and Brown largely refer to and endorse the description of landscape values for the Slope Hill foothills as is set out in the PDP's Sch 24.8. Similarly, relevant PDP policies direct us to Sch 24.8 for an understanding of those values. Sch 24.8 traverses a range of matters, extending beyond values to descriptions of existing patterns of land use and an overall statement that the capacity of this landscape unit to absorb change is low. However, we find the following summary from Mr Brown's evidence helpful:<sup>60</sup>

***Visibility / prominence***

*Visibility varies across the landscape unit. The elevated nature of the unit and its location adjacent a flat plain on its western side means that this part of the area is visually prominent.*

*The steep hillslopes and escarpment faces edging Speargrass Flat to the north and Lake Hayes to the east, together with Slope Hill itself, serve to limit visibility of the balance of the unit from the wider basin landscape.*

***Views***

*Key views relate to the open vistas available from parts of Hawthorn Triangle environs to the western portion of the unit.*

*The unit affords attractive long-range views out over the basin to the surrounding ONL mountain setting as well as open views of the nearby Slope Hill ONF from some public locations.*

***Sense of Place***

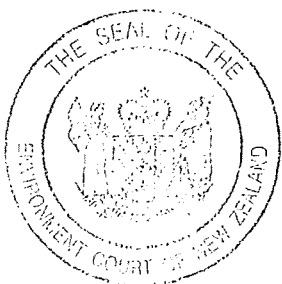
*Generally, the area reads as a mixed rural and rural residential landscape.*

*The elevated portions of the area read as a rural residential landscape 'at, or very near, its limit'.*

*The lower-lying stream valley area to the east remains largely undeveloped, and functions as somewhat of a 'foil' for the more intensive rural residential landscape associated with the surrounding elevated slopes.*

***Capability to absorb additional development***

*Low*




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<sup>60</sup> Brown EIC at [29].

[79] We add that Sch 24.8 also refers to the following associated values:

- (a) a variable sense of openness and enclosure, including that landforms in the central and eastern areas provide containment at a macro scale; and
- (b) relative complexity in landform patterning.

[80] We also agree with Mr Brown that Slope Hill contributes "appreciably" to the values of LCU 11. That is evident, for example from statements in Sch 24.8, including to the effect that LCU 11 "adjoins" Slope Hill ONF and that it is important to retain existing open views to Slope Hill. Furthermore, as Sch 24.8 also recognises, there is a landform pattern relationship between Slope Hill and the foothills. Sch 24.8 describes this in the sense of a complex patterning of hills ranging from moderate to steeply sloping in places, including an elevated hummocky pattern throughout central portion (with remnant kettle lakes).

*Related VAL values*

[81] Comparatively speaking, the ODP's description of landscape values for the VAL is more generic. It is not based on identified LCUs. There is a helpful summary of the ODP's approach in Mr Brown's evidence.<sup>61</sup> Broadly, VALs generally have picturesque 'Arcadian' qualities. That pertains to their patterning of houses and trees and other human modifications. They also generally have prominence because they are adjacent to ONF/Ls and/or include ridges, hills, downlands and/or terraces.

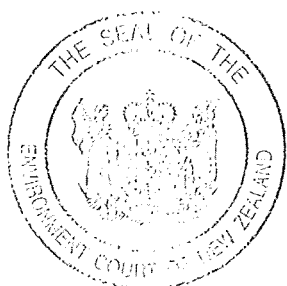
[82] Further guidance as to what the ODP intends as priorities for maintenance or enhancement of VAL values is found in the assessment matters in r 5.4.2, we have already assessed matters as to the visibility, form and density of the development. The remaining assessment matters are as to:<sup>62</sup>

- (a) effects on natural and pastoral character;
- (b) cumulative effects of development on the landscape; and
- (c) rural amenities.

[83] We find that we should give comparatively less weight to these aspects of the

<sup>61</sup> Brown EIC at [31].

<sup>62</sup> ODP section 5.4.2.2 (3) Visual Amenity Landscapes.



ODP, in light of the PDP's more specific focus on landscape and amenity values identified as associated with particular LCUs.

***The proposal is not adjacent to and would not materially impact the Slope Hill ONF***

[84] We prefer Mr Skelton's opinion that the proposal is not adjacent or in material proximity to the Slope Hill ONF. Rather, as his unchallenged calculations demonstrated, it is sufficiently separated horizontally and vertically. It is also perceptually separated by other intervening well-established rural living. That is the case for long distance, middle-distance and near distance views.

[85] We also accept his opinion that the proposal would not adversely affect the ONF's outstanding visual or character values to a more than low degree.<sup>63</sup> More clearly, we find the proposal to have no adverse effect on those values. Therefore, on the evidence, we find the site does not trigger s6(b), RMA nor its related objectives and policies. We now set out our related findings on those before returning to the landscape evidence.

***Findings on the evidence as to effects on LUC 11 landscape values***

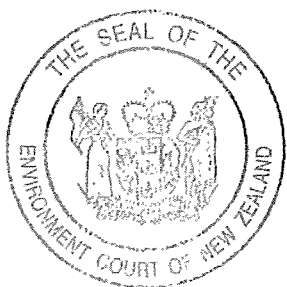
[86] We accept Mr Skelton's evidence that the site is located in a part of LCU 11 that is comparatively enclosed. That is reinforced by our findings that the proposal would not have any significant impact when viewed from long distance and middle-distance viewpoints. In effect, whilst acknowledging that the site is in an elevated part of LCU 11 and close to Slope Hill ONF, we find that it would be effectively absorbed such as to not give rise to any material impact on associated landscape values from those viewing distances. Hence, any associated effects on landscape values associated with LUC 11 are confined to how the proposal would be perceived from Slopehill Road.

[87] At that near view scale, we find that the proposal would change the present view across open pastoral land to a limited but acceptable extent. We do not entirely accept Mr Skelton's opinion that, despite the additional dwellings, the site would retain its sense of openness. Rather, Mr Brown fairly observes that the proposed dwellings would sit "in the middle of" the site.<sup>64</sup> To that extent, the proposal would render the site less open than it currently is, as a matter of fact. However, several factors combine to satisfy us that the

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<sup>63</sup> Skelton Summary Statement, at [11].

<sup>64</sup> Transcript, p 38 I 3.





proposal sufficiently maintains openness in a way that is sympathetic to landform and effectively ensures absorption of this land use change. Those factors are:

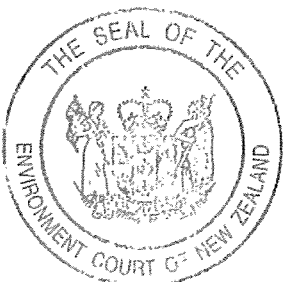
- (a) the locality of the site itself, both in regard to the Slope Hill ONF and Slope Hill Road. Specifically, we find the site is sufficiently distant from the Slope Hill ONF and in keeping with the existing pattern of development along the road;
- (b) the natural attributes of the site, including its undulating and terraced contour and reasonably close proximity to Slope Hill Road;
- (c) the effective integration of earthworks with the existing landform, and adequate open areas;
- (d) the related softening influence of the landscape plantings, and restoration and enhancement of the gully's riparian plantings;
- (e) the relative lack of residential intensification proposed, in that only two dwellings would be added, each on sites that are no less generous than most in the vicinity; and
- (f) effective controls on building bulk, height and recessive colour treatments.

[88] Overall, preferring Mr Skelton's evidence in relevant respects, we find the landscape and visual amenity effects of the proposal would be no more than minor. Specifically, that is in the sense that the proposal will properly respect all relevant landscape values and at least maintain landscape and other amenity values (and for the gully and stream, enhance those values).

[89] For similar reasons, we find that the proposal would not have any adverse cumulative effects on landscape and related amenity values. In summary, that is because it is a small sensitively-designed proposal located in an area that, in some contrast to the typical absorptive capacity in LCU 11, is capable of absorbing it. As such, it does not degrade the values associated with Slope Hill ONF or LCU 11 nor set any platform for future cumulative degradation.

***Findings in relation to ODP and PDP objectives and policies***

[90] It follows that we are satisfied that the proposal is properly compatible with all relevant ODP and PDP objectives and policies. Our findings are:



## ODP

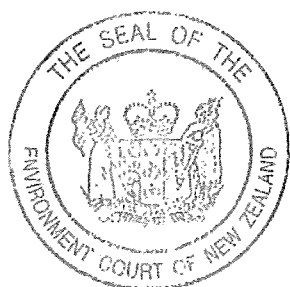
<i>Provisions</i>	<i>Findings</i>
Obj 4.2.5	Accords with and assists to achieve
Pol 1	Accords with and assists to achieve
Pol 2	Does not conflict with
Pol 3	Does not conflict with
Pol 4	Accords with and assists to achieve
Pol 5	Accords with and assists to achieve
Pol 8	Accords with and assists to achieve
Ch 5 Obj 1	Does not conflict with
Pols 1.4, 1.6 and 1.7	Accords with and assists to achieve

## PDP

<i>Provisions</i>	<i>Description</i>
<i>Strategic Direction Ch 3 Objectives</i>	
Obj 3.2.5.1	Does not conflict with
Pol 3.3.23	Does not conflict with
Pol 3.3.24	Does not conflict with
<i>Ch 24 Wakatipu Basin</i>	
Obj 24.2.1	Accords with and assists to achieve
<i>Implementing policies</i>	
Pol 24.2.1.1	In conflict with
Pol 24.2.1.2	Does not conflict with
Pol 24.2.1.3	Accords with and assists to achieve
Pol 24.2.1.4	Accords with and assists to achieve
Pol 24.2.1.5	Does not conflict with
Pol 24.2.1.11	Does not conflict with

**Conflict with Pol 24.2.1.1 is not significant**

[91] The proposal, seeking subdivision of a site already well less than 80 ha in area, inherently cannot accord with Pol 24.2.1.1. However, in the design of Ch 24, as we have discussed, that does not condemn the proposal. Rather, it allows for the proposal to be consented subject to it proving satisfactory in terms of the matters addressed in this



interim decision.

### **Plan integrity**

[92] On that basis we find that granting consent would not impact on the integrity of Ch 24 or the PDP as a whole. As such, it does not pose any precedent risk.

### **Part 2 RMA**

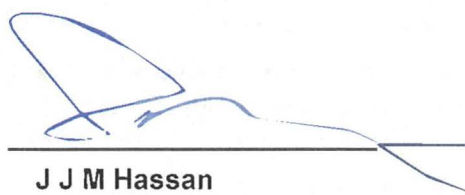
[93] On that basis, it follows that we find that the proposal does not conflict with s6(b), or any other relevant provisions of pt 2, RMA.

### **Conclusion**

[94] We find that, on the matters addressed by this decision, the proposal satisfies the RMA's requirements. The matters remaining for determination under the appeals are of a comparatively localised nature. Primarily, they concern the impacts of the proposal on the appellants' amenity values and enjoyment of their properties. They also concern the specifics of the proposal in those terms and related consent conditions. Given that focus, we consider an appropriate first step is to convene a teleconference. That is to discuss appropriate case management steps, including whether and to what extent further hearing time is required. The Registrar will contact the parties to arrange a teleconference for that purpose.

[95] Costs are reserved, and a timetable will be set in due course.

For the court:



**J J M Hassan**  
**Environment Judge**

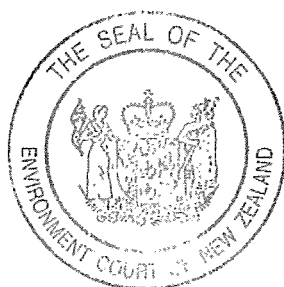


## Annexure

## Summary of ODP and PDP objectives, policies and assessment matters

## ODP

<i>Provisions</i>	<i>Description</i>
Obj 4.2.5	subdivision, use and development avoids, remedies or mitigates adverse effects of subdivision use and development on landscape and visual amenity values
<i>Implementing policies</i>	
Pol 1	directs to avoid, remedy or mitigate effects of development and/or subdivision in areas where landscape and visual amenity values are vulnerable to degradation, and to encourage development/subdivision in areas that have greater potential to absorb change. Seeks to ensure development/subdivision harmonises with local topography;
Pol 2	directs to maintain present openness where ONF/Ls <sup>65</sup> have an open character and to recognise and provide for the protection of naturalness and enhance the amenity of views of ONF/Ls from public roads; seeks to avoid subdivision/development where ONLs have little or no capacity to absorb change and allow for limited subdivision/development where there is higher absorption capacity;
Pol 3	directs to avoid subdivision/development on ONF/Ls of the Wakatipu Basin unless the effects on landscape values and natural character and visual amenity values are only minor. Specifies such outcomes are important for buildings and structures and associated roading, the importance of avoiding cumulative deterioration, the importance of protecting and enhancing naturalness and enhancing views from public places and roads. Directs to maintain openness where ONF/Ls have present open character and to remedy and mitigate past inappropriate subdivision/development;
Pol 4	directs that adverse effects of subdivision and development are avoided, remedied, or mitigated in VALs that are highly visible from public areas and visible from public roads. It also requires mitigation of loss of or enhancement of natural character by appropriate planting and landscaping;
Pol 5	directs that subdivision be avoided in the vicinity of ONFs including Slope Hill, unless it will not result in adverse effects that are no more than minor on landscape values, natural character, and visual amenity values;
Pol 8	directs that in applying inter alia Pols 1, 4, and 5 the density of subdivision does not lead to over domestication of the landscape.
Ch 5 Obj 1	to protect character and landscape value by promoting sustainable development and controlling adverse effects of inappropriate activities
<i>Implementing policies</i>	
Pols 1.4 - 1.7	seek to ensure activities occur where the character of the rural area will not be adversely impacted, adverse effects on the District's landscapes are avoided, remedied or mitigated, and the visual coherence of the landscape is preserved.

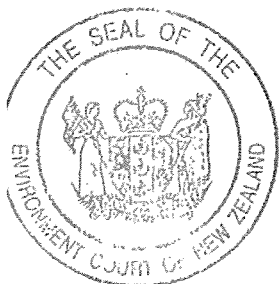


<sup>65</sup> Outstanding Natural Features and Outstanding Natural Landscapes.

<i>Assessment matters and other rules</i>	
R 5.4.2	related assessment matters direct that assessment be as to: (a) effects on natural and pastoral character; (b) visibility of development; (c) form and density of development; (d) cumulative effects of development on the landscape; and (e) rural amenities.

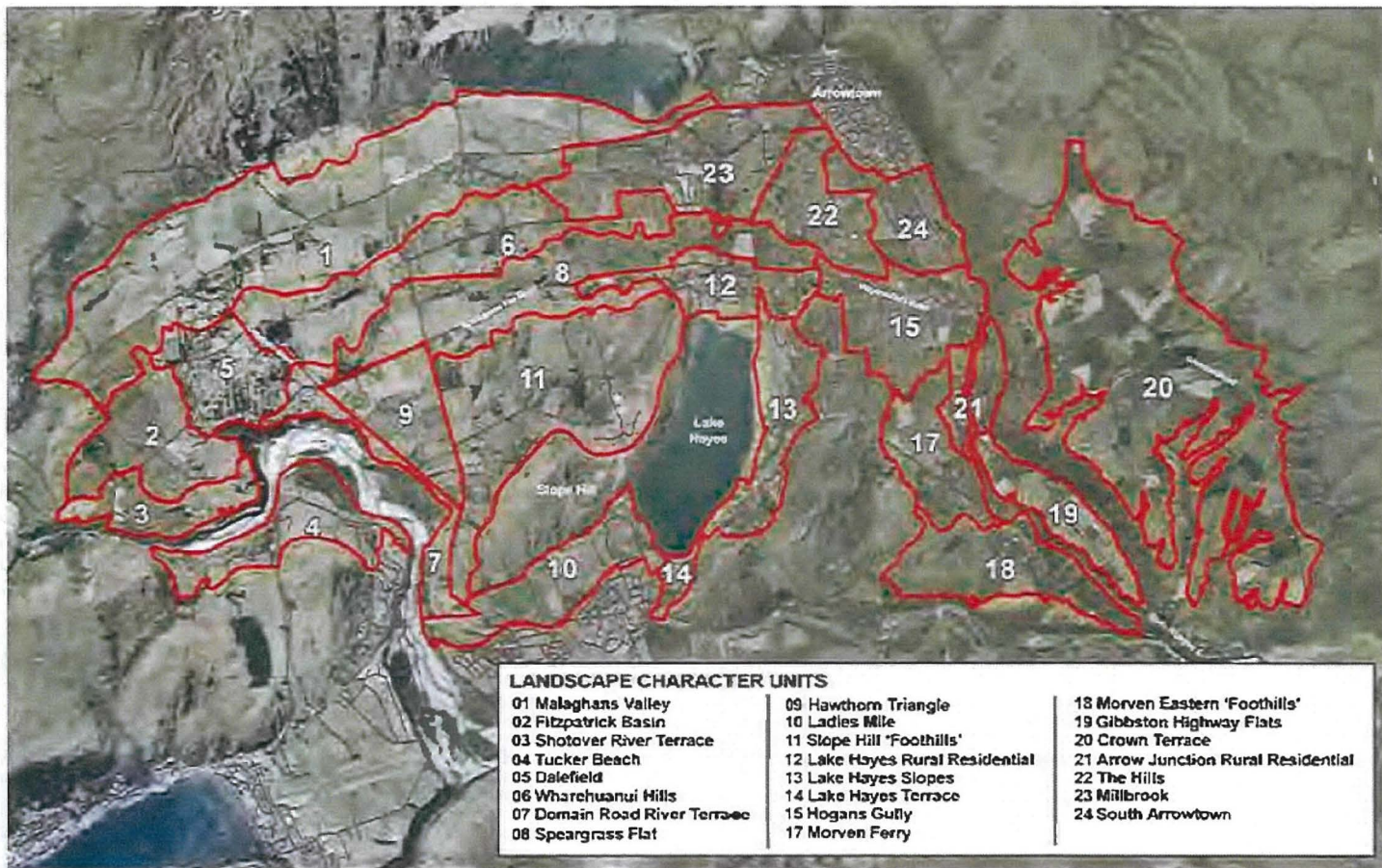
## PDP

<i>Provisions</i>	<i>Description</i>
<i>Strategic Direction Ch 3 Objectives</i>	
Obj 3.2.5.1	refers to landscape and visual amenity values in relation to ONLs and ONFs.
<i>Implementing policies</i>	
Pol 3.3.23	seeks to identify areas that cannot absorb further change and avoid residential development there.
Pol 3.3.24	seeks to ensure cumulative effects of subdivision and development do not result in areas losing their rural character.
<i>Ch 24 Wakatipu Basin</i>	
Obj 24.2.1	seeks to maintain or enhance landscape character and visual amenity values in the Wakatipu Basin Rural Amenity Zone.
<i>Implementing policies</i>	
Pol 24.2.1.1	requires a minimum net site area of 80 ha be maintained within the Wakatipu Basin Rural Amenity Zone outside of the Precinct.
Pol 24.2.1.2	seeks to ensure subdivision and development is designed to minimise inappropriate modification to the natural landform.
Pol 24.2.1.3	seeks to ensure subdivision and development maintains or enhances landscape character and visual amenity values identified in PDP Sch 24.8 Landscape Character Units.
Pol 24.2.1.4	seeks to maintain or enhance landscape character and visual amenity values associated with the Rural Amenity Zone inter alia by the control of the colour, scale, form, coverage, location (including setbacks from boundaries) and height of buildings and associated infrastructure, vegetation and landscape elements.
Pol 24.2.1.5	requires buildings to be located and designed so they do not compromise the landscape and amenity values and natural character of an ONF or ONL that are adjacent or where the building is in the foreground of views from a public road or reserve of the ONF or ONL.
Pol 24.2.1.11	provides for activities whose built form is subservient to natural landscape elements and that, in areas Schedule 24.8 identifies as having a sense of openness and spaciousness, maintain those qualities.



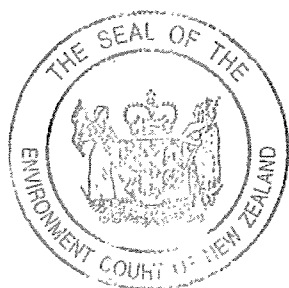


## 24.8 Schedule 24.8 Landscape Character Units



24.8 Schedule 24.8 Landscape Character Units  
 Extracts of Map showing all LCUs and Table for LCU 11: Slope Hill 'Foothills'

Landscape Character Unit	11: Slope Hill 'Foothills'
Landform patterns	Elevated and complex patterning of hills ranging from moderate to steeply sloping in places. Elevated hummock pattern throughout central portion with remnant kettle lakes.
Vegetation patterns	Exotic shelterbelts, woodlots, remnant gully vegetation, and exotic amenity plantings around older rural residential dwellings. Predominantly grazed grass although smaller lots tends to be mown.
Hydrology	Numerous streams, ponds and localised wet areas.
Proximity to ONL/ONF	Adjoins Slope Hill/Lake Hayes ONF.
Adjoins Slope Hill/Lake Hayes ONF.	North: Ridgeline crest. East: Ridgeline crest/ONF. South: Toe of Slope Hill ONF. West: Lower Shotover Road.
Land use	Mix of rural and rural residential.
Settlement patterns	Dwellings generally located to enjoy long-range basin and mountain views. Older rural residential development tends to be well integrated by planting and/or localised landform patterns. Newer rural residential is considerably more exposed, with buildings sited to exploit landform screening (where possible). Clustered development evident in places. Numerous consented but unbuilt platforms (43). Typical lot sizes: evenly distributed mix. One property 100-500ha range, another 50-100ha. Balance typically shared lots or 4-10ha range.
Proximity to key route	Located away from key vehicular route.
Heritage features	No heritage buildings/features identified in PDP
Recreation features	A Council walkway/cycleway runs along Slope Hill Road (forms part of the Queenstown Trail 'Countryside Ride')
Infrastructure features	Reticulated water, sewer and stormwater in places
Existing zoning	PDP: Western slopes overlooking Hawthorn Triangle: Rural Lifestyle (no defensible edges). Balance of the unit: Rural.
Visibility/prominence	Visibility varies across the landscape unit. The elevated nature of the unit and its location adjacent a flat plain on its western side means that this part of the area is visually prominent. The steep hillslopes and escarpment faces edging Speargrass Flat to the north and Lake Hayes to the east, together with Slope Hill itself, serve to limit visibility of the balance of the unit from the wider basin landscape.
Views	Key views relate to the open vistas available from parts of Hawthorn Triangle environs to the western portion of the unit. The unit affords attractive long-range views out over the basin to the surrounding ONL mountain setting as well as open views of the nearby Slope Hill ONF from some public locations.



Enclosure/openness	<p>A variable sense of openness and enclosure.</p> <p>The older and more established rural residential development throughout the elevated slopes on the western side of the unit are reasonably enclosed, despite their elevation.</p> <p>Throughout the central and eastern areas, landform provides containment at a macro scale.</p>
Complexity	<p>Generally, a relatively complex unit due to the landform patterning.</p> <p>Vegetation patterns add to the complexity in places.</p>
Coherence	<p>The coordination of landform and vegetation patterns in places (associated with gully plantings), contributes a degree of landscape coherence.</p> <p>Elsewhere the discordant vegetation and landform patterning means that there is a limited perception of landscape coherence.</p>
Naturalness	<p>A variable sense of naturalness, largely dependent on how well buildings are integrated into the landscape. The large number of consented but unbuilt platforms suggest that a perception of naturalness could reduce appreciably in time.</p>
Sense of Place	<p>Generally, the area reads as a mixed rural and rural residential landscape.</p> <p>The elevated portions of the area read as a rural residential landscape 'at, or very near, its limit'.</p> <p>The lower-lying stream valley area to the east remains largely undeveloped, and functions as somewhat of a 'foil' for the more intensive rural residential landscape associated with the surrounding elevated slopes.</p>
Potential landscape issues and constraints associated with additional development	<p>DoC ownership of part of low lying stream valley to the east.</p> <p>Drainage in places (e.g. low-lying stream valley to east).</p> <p>Potential visibility of development throughout western hillslopes in particular.</p> <p>Importance of the western slopes as a contrasting and highly attractive backdrop to the intensive patterning throughout the Hawthorne Triangle, particularly in views from within the triangle.</p> <p>Importance of existing open views to Slope Hill.</p> <p>Proximity of popular walkway/cycleway route.</p> <p>Environment Court history suggest that the capacity has been fully exploited in most parts of the LCU.</p>
Potential landscape opportunities and benefits associated with additional development	<p>Riparian restoration potential.</p> <p>Large-scaled lots suggest potential for subdivision.</p> <p>Improved landscape legibility via gully and steep slope planting.</p>
Environmental characteristics and visual amenity values to be maintained and enhanced	<p>Landform pattern.</p> <p>Careful integration of buildings with landform and planting.</p> <p>Set back of buildings from ridgeline crests to north and east of unit.</p> <p>Retention of existing open views to Slope Hill.</p>
Capability to absorb additional development	<p>Low</p>

