

**Before the Panel of Hearing Commissioners
For the Queenstown Lakes Proposed District Plan**

In the Matter of the Resource Management Act
1991
And
In the Matter of the Queenstown Lakes Proposed
District Plan - Stage 2
And
In the Matter of Hearing Stream 14 - Wakatipu
Basin

**Statement of Evidence of Amanda Leith
for D Hamilton & L Hayden (Submitter 2422)**

Dated: 13 June 2018

Table of Contents

INTRODUCTION 3
 Qualifications and Experience 3

CODE OF CONDUCT 3

SCOPE OF EVIDENCE..... 3

EXECUTIVE SUMMARY..... 4

BACKGROUND 4

RELIEF SOUGHT 7

COUNCIL RECOMMENDATION 8

ANALYSIS 9

CONCLUSION 14

ANNEXURE A – TOPOGRAPHICAL PLAN OF THE SUBJECT SITE 16

INTRODUCTION

Qualifications and Experience

1. My full name is Amanda Jane Leith.
2. I am a Resource Management Planner and I hold a Bachelor of Arts and a Masters in Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
3. I have 13 years' experience in planning and resource management including 11 years in local government in New Zealand and Australia. I am employed by Southern Planning Group (2017) Limited.
4. During 2015 and 2016 I was employed by the Queenstown Lakes District Council and I prepared the s42A reports in relation to Chapters 2 - Definitions, 7 – Low Density Residential, 8 – Medium Density Residential and 11 – Large Lot Residential of the Proposed District Plan.

CODE OF CONDUCT

5. I confirm that I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court Practice Note dated 1 December 2014. I agree to comply with this Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

6. My evidence will deal with the following:
 - (a) Background;
 - (b) Relief sought;
 - (c) Analysis;
 - (d) Conclusions.

EXECUTIVE SUMMARY

7. Dean Hamilton and Lisa Hayden engaged Southern Planning Group to prepare a submission on the Proposed District Plan (PDP) as notified on 26 November 2017, namely the proposed zoning and the provisions within Chapter 24 – Wakatipu Basin. The submitters land is 76 Hunter Road, Wakatipu Basin (the subject site).
8. The submitters seek that the entirety of their land is included within the Wakatipu Basin Lifestyle Precinct (WBLP). This relief along with an amendment to the location of the Landscape Feature line are supported on the basis that the proposed location represents a more defensible boundary for the WBLP zone and will still ensure future development is not visible from Malaghans Road.
9. In relation to Hunter Road I consider that Rule 24.5.4 in relation to the minimum road setback requirement of 75m be retained.
10. On the basis of Mr Milne's landscape evidence in relation to Rule 24.4.29, I recommend that this rule is amended so that it applies to the exotic vegetation within the 75m road setback rather than across the zone.
11. I oppose the notified wording of Rule 27.4.2(g) as it does not provide for the staged subdivision of land via the applied non-complying activity status, even though the land may meet the minimum and average lot sizes prescribed within Chapter 27. I consider that an amendment should be made to Rule 27.4.2(g) to allow for the lot sizes of any prior subdivision of the land to be taken into account.

BACKGROUND

12. D Hamilton and L Hayden own 76 Hunter Road, Wakatipu Basin which is legally described as Lot 2 Deposited Plan 27832. The site has an area of 21.426 hectares and is shown in the aerial photo in Figure 1 below:



Figure 1: Location and extent of 76 Hunter Road

13. The site contains an existing dwelling and access to the dwelling is obtained via a right of way easement over the adjoining Lot 6 Deposited Plan 19711. This lot adjoins the northern boundary of the subject site and also provides access to 68 Hunter Road, 70 Hunter Road, 72 Hunter Road and 74 Hunter Road which all have a quarter share of Lot 6 Deposited Plan 19711.
14. The notified¹ zoning of the subject site is shown in Figure 2 below².

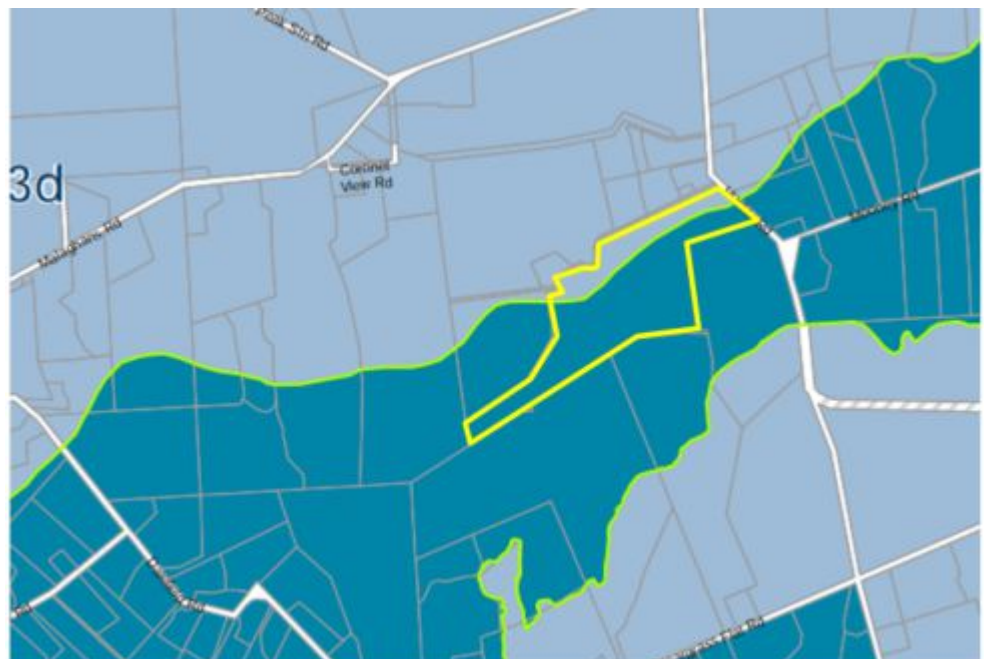


Figure 2: Location and notified zoning of the subject site

¹ Notified 23 November 2017

² Excerpt from Planning Map 29 notified on 23 November 2017

15. A topographical plan of the subject site was lodged with the submission and is also attached to this evidence for reference (see **Appendix A**). This plan also shows the extent of the notified WBLP across the southern part of the site which represents 16.35 hectares of the site. The northern part of the site was notified as Wakatipu Basin Rural Amenity Zone (WBRAZ) which represents 5.0760 hectares of the site. The two zones are separated by a Landscape Feature line identified by the green line in Figure 2 above.
16. The site straddles the 01 - Malaghans Valley and 06 – Wharehuanui Hills landscape character units.
17. The subject site as it adjoins Hunter Road is of flat paddocks, however the eastern part of the site contains hilly landforms as can be seen in Figures 3 and 4 below:



Figure 3: View of the subject site from the Hunter Road boundary looking to the west



Figure 4: Photo of the subject site from the adjoining access lot looking southeast

RELIEF SOUGHT

18. D Hamilton & L Hayden lodged a submission (#2422) as a result of the notification of Chapter 24 – Wakatipu Basin and its associated maps.
19. The relief sought in the submission is as follows:
 - (a) Confirmation of the inclusion of the subject site within the WBLP however amendment is sought to extend the WBLP zoning to the northern boundary of the site so that the entirety of the site is located within the WBLP.
 - (b) Confirmation of the notified minimum and average lot area for the WBLP in Rule 27.5.1.
 - (c) Confirmation of the restricted activity status of Rule 27.7.6.1 pertaining to subdivision within the WBLP.
 - (d) Confirmation of the discretionary activity status for Rule 24.4.9 for the construction of buildings not provided for within other rules in Table 24.1 or Table 24.2.

- (e) Change the activity status for Rule 24.4.5 relating to the construction of buildings within approved building platforms to permitted.
- (f) Inclusion of a new rule pertaining to the identification of a building platform as a land use activity within Chapter 24.
- (g) Amend the setback from roads within Rule 24.5.4 for the WBLP to 20m.
- (h) Deletion of Rule 24.4.29 which requires resource consent for any clearance, works within the root protection zone or significant trimming of exotic vegetation that is of a height greater than 4m.
- (i) Deletion of Rule 24.5.5 that requires buildings to be located a minimum of 50m from an identified landscape feature.
- (j) Amendment to Rule 27.4.2(g) pertaining to any further subdivision of an allotment which has previously been used to calculate the minimum and average lot size for subdivision in the WBLP to state that the minimum and average lot size is to take into account the minimum and average lot sizes of that previous subdivision.

COUNCIL RECOMMENDATION

- 20. The recommendation of Mr Langman³ on behalf of Council is to reject the relief sought on the basis of the landscape evidence provided by Ms Gilbert.
- 21. Ms Gilbert opposes the relief sought with respect to the amendment to the location of the WBLP as alignment of the WBLP zoning with the cadastral boundary would raise an issue of methodological consistency and is an approach that has only been adopted in a limited number of situations where a 'more robust' method is not available.
- 22. Ms Gilbert prefers following the 'very strong' geomorphological patterning of the Wharehuanui Hill system which is located to the west and east of the site and extrapolating the line between the two features. Ms Gilbert acknowledges that the eastern extent of 76 Hunter Road is a low point in the ridgeline system, however the scale of the 'interruption' to the ridgeline patterning as a result of this low point is insufficient to warrant the

³ Section 42A report

reconfiguration of the Landscape Character Unit boundary to exclude the area from the Malaghans Valley unit.

ANALYSIS

23. The relief sought by the submitter is primarily a landscape assessment matter and therefore I rely upon the landscape evidence provided by Mr Milne of Rough and Milne.

Extension of the WBLP and Location of the Landscape Feature Line

24. As outlined above, the submitter seeks that the entire site be included within the WBLP and that of Rule 24.5.5 that requires buildings to be located a minimum of 50m from an identified landscape feature be deleted.
25. The change in zone across the site aligns with the notified location of the Landscape Feature line. Ms Gilbert in her evidence states that this line across the flat areas of the site represents an extrapolation line between the hill landforms to the east and west and that it corresponds with the geomorphological pattern of the broader area surrounding the property.
26. Mr Milne identifies that the Landscape Feature line through the submitter's property is an arbitrary line as a result of the extrapolation undertaken and it could be shifted 100m either side of its notified position without affecting the delineation between the two LCU's.
27. Ms Gilbert rejected the proposal to extend the WBLP to the northern boundary of the property on the basis that cadastral boundaries have been avoided where a more suitable alignment is identified such as geomorphological features. However, I consider, taking into account the evidence of Mr Milne, that the extrapolation of the line between the two hill landforms to the east and west is no better than the proposed alignment with the northern cadastral boundary of the site.
28. Mr Milne considers that the WBLP could be extended to the northern boundary of the property as this location provides a logic boundary to the zone. I agree with Mr Milne for the reasons outlined in his evidence and given that the northern boundary adjoins Lot 6 Deposited Plan 19711 which is akin to a road or access lot. This adjoining lot is approximately 10m wide and affords a separation between the subject site and the adjacent sites to the

north. Given its configuration and land ownership, it is considered highly unlikely that this adjoining lot would be developed for anything other than for access. Its function is therefore similar to a road which is another delineation used to determine a change in zoning in the Wakatipu Basin (eg. Lower Shotover Road and Domain Road). This provides additional reasoning to extend the WBLP zoning to the northern boundary of the site.

29. In relation to the proposed deletion of Rule 24.5.5 that requires buildings to be located a minimum of 50m from an identified landscape feature. Mr Milne does not support the deletion of this rule, however he does consider that the Landscape Feature line across the flat portion of the site should either be deleted or an exception should be provided for in Rule 24.5.5 for the subject site. In relation to the elevated portions of the site, Mr Milne considers that the Landscape Feature line should be relocated to the northern boundary of the property along with the WBLP zoning and that Rule 24.5.5 will ensure that any future development on the elevated portions of the site will not be visible from Malaghans Road to the north.
30. I consider that Mr Milne's approach is a pragmatic one which takes into account the subject site's topography while considering the wider landscape values. I do not support an exception being included within Rule 24.5.5 for the subject site given that the inclusion of site specific controls can make the District Plan cumbersome and difficult to administer once sites have been subdivided and legal descriptions or property addresses change. As such, I support Mr Milne's approach in deleting the Landscape Feature line on the flat portion of the site. As a consequence, Rule 24.5.5 would not apply to this area of the site and the internal setback distance would therefore be 10m under Rule 24.5.2.
31. I also support this approach as the application of a Landscape Feature line across the flat portion of the site does not correspond with any physical land feature which differentiates the land from the adjoining properties to the north and therefore it does not make sense when standing on the land.
32. I note that there are other locations within the Wakatipu Basin where the zoning changes between WBRAZ and WBLP without a Landscape Feature line being identified (eg north site of Littles Road on Map 29 or around the Speargrass Flat Road / Arrowtown – Lake Hayes Road intersection on Map 26) and therefore this approach would not be dissimilar.

33. Overall, it is considered that the Landscape Feature line along the flat portion of the site be deleted. The Landscape Feature line within the elevated portions of the site should however be retained but repositioned along the northern boundary of the site. The WBLP zoning should also be extended to the northern boundary of the site.

Road Setback

34. The submission sought amendment to Rule 24.5.4 to change the minimum road setback requirement from 75m to 20m consistent with the WBRAZ.
35. Mr Milne does not agree with this relief as he considers that the 75m setback requirement ensures that future development in proximity to the road would be consistent with the existing pattern of development along Hunter Road, therefore maintaining the landscape character and amenity experienced from Hunter Road.
36. I agree with Mr Milne in relation to the average setback pattern along Hunter Road and consider that the 75m setback prescribed in Rule 24.5.4 would be consistent with this pattern.
37. On a zone wide basis however I still consider that the broad brush application of a 75m setback across the WBLP does not take into account some areas in which a lesser setback pattern has been established along roads such as Mountain View Road and Fitzpatrick Road. However this could be addressed through the restricted discretionary resource consent process.

Exotic vegetation controls

38. The submission sought deletion of Rule 24.4.29 which requires resource consent for any clearance works within the root protection zone or significant trimming of exotic vegetation that is of height greater than 4m.
39. This relief was sought on the basis that the rule may discourage removal of wilding species or other pest species. Furthermore, as outlined in the submission, an alternative approach to achieve the same benefits listed in the s32 report in support of the rule, would be to identify the trees which Council considers to be of benefit to the character of the zone and include them within Chapter 32: Protected Trees.

40. As stated in his evidence, Mr Milne does not support the deletion of Rule 24.4.29, however he considers that its scope should be restricted to the planting within the 75m road setback distance only. I note that there is no significant vegetation located within 75m of the Hunter Road boundary of the subject site and therefore this rule would apply to future plantings only. Mr Milne also notes this and acknowledges that his comment is based upon the broader zone. I support the relief recommended by Mr Milne.

Further Subdivision

41. The submission sought that amendment to Rule 27.4.2(g) be made to allow the minimum and average lot sizes of any previous subdivision of the land be taken into account.
42. Rule 27.4.2(g) as notified, results in landowners not being able to subdivide in a staged manner over time as their needs or circumstances change. Using the subject property as an example, this site is over 21 hectares in area. In theory, given the size of the land, there may be the ability to create an additional 20 lots, however should the landowners want to subdivide off a 1 hectare lot first to facilitate the housing of a family member, any future subdivision of the land would be non-complying which bears a higher statutory test via Section 104D and often higher consenting related costs.
43. Rule 27.4.2(g) is similar to the ODP Rule 15.2.3.4(ii) which states:
- (ii) *The further subdivision of any allotment, including balances, that had previously been used to calculate the average allotment size under Rule 15.2.6.3(ii).*
44. Rule 15.2.6.3(ii) relates to the minimum lot average required for any subdivision within the Rural Residential - Bob's Cove subzone and Rural Lifestyle zone. Consequently, I understand why Council may favour this approach in terms of familiarity and also for ease of assessment.
45. Mr Barr addresses the relief sought in paragraphs 34.4 – 34.7 of his s42A report and ultimately recommends rejection of the proposal on the basis that the non-complying activity status is appropriate to ensure that decision makers have adequate breadth to consider whether the objectives of Chapter 24 are undermined by further subdivision. Mr Barr also identifies that amendment to this rule could result in areas that were 'set aside' as part

of the balancing of effects being further subdivided which would undermine the judgement of the previous application.

46. I however consider that the wording of Rule 27.4.2(g) is onerous and I support the amendments to the wording of the rule as proposed by Brustad (submitter 2577) as outlined by M Barr in paragraph 34.5 (which are consistent with the relief sought by this submitter). The proposed wording is as follows⁴:

g. *The further subdivision of an allotment that has previously been used to calculate the minimum and average lot size for subdivision in the Wakatipu Basin Lifestyle Precinct, except in the instance that the further subdivision and any prior subdivision together complies with Rule 27.5.1.*

47. I consider that this amendment to the wording will ensure that land owners do not 'double dip' and end up with additional lots through the subdivision of balance land. This would also ensure that the prior subdivision consents for the land are brought to the Council's attention as part of a subdivision application and the past judgement in relation to the size, location, configuration of any balance land can be reviewed in the context of the new application. The proposed matters of discretion in rule 27.7.6.1 and the associated assessment matters in 27.7.6.2 would also enable a robust assessment of a proposal to further subdivide land which had previously been subdivided.

48. I acknowledge that comprehensive development plans are preferable to piecemeal development so that Council can consider a plan holistically, however some landowners do not have the means to plan or undertake subdivision of a scale which their land holding may allow for. However the overall effect of undertaking a two lot subdivision first and then a further one at a later point (provided that the average lot size as prescribed for the WBLP is maintained) would most likely be the same.

Other matters

49. The other relief sought within the submission relating to the minimum and average lot size, identification of a rule pertaining to building platforms as a

⁴ Addition to the notified rule shown as underlined

land use activity and confirmation of the notified activity status' of Rules 27.7.6.1 and 24.4.9, have all been addressed by Mr Barr in his s42A report and I concur with his recommendations.

CONCLUSION

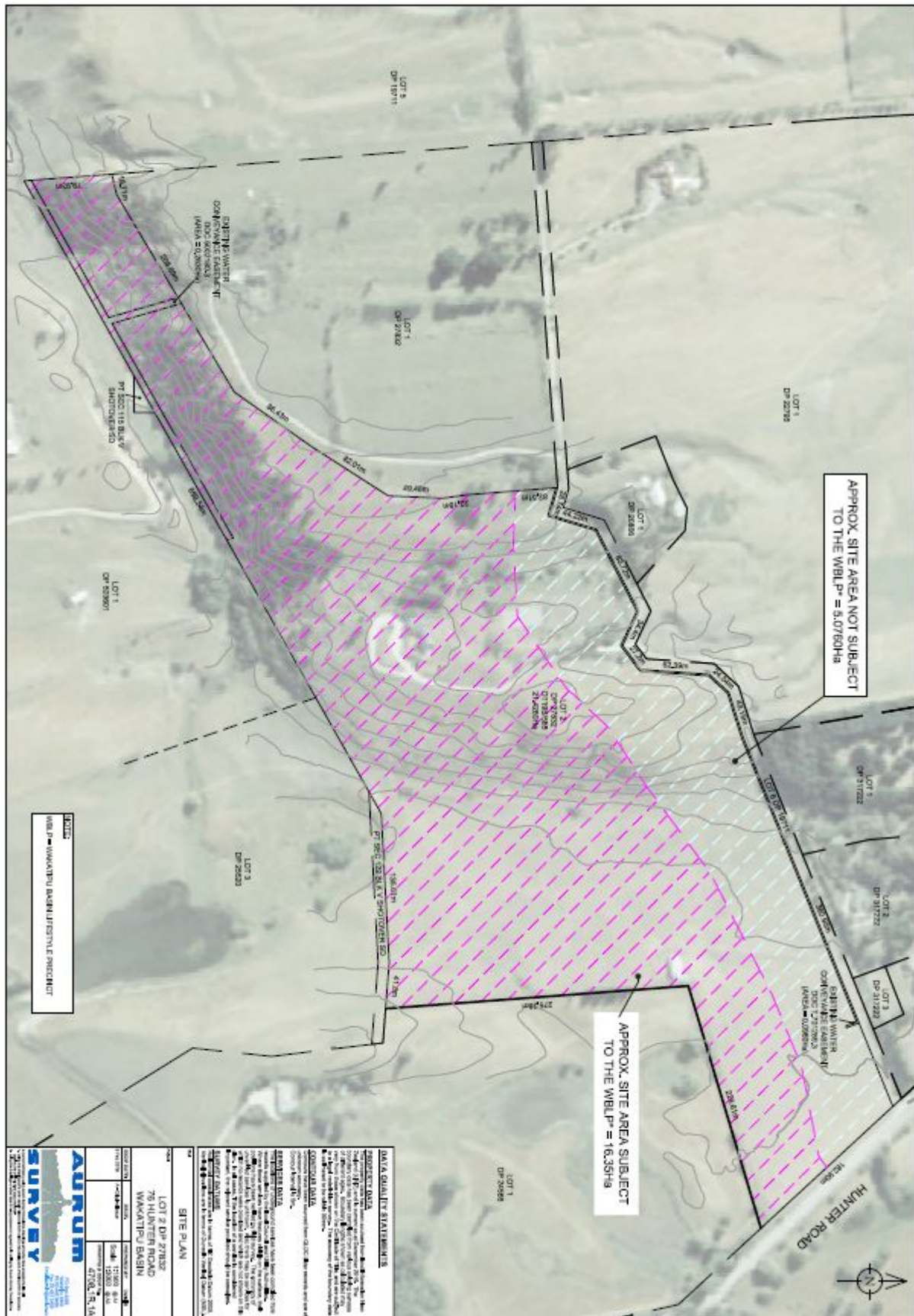
50. The extension of the WBLP zoning to the northern boundary of the subject site is considered to be a more defensible boundary to the WBLP zone than the notified location given that the current zone boundary is based upon extrapolation between the two neighbouring landforms.
51. Taking into account Mr Milne's evidence, I consider that the Landscape Feature line should be deleted over the flat portion of the site as it does not represent any identifiable change in the landform in this location. The Landscape Feature line should however be retained on the elevated portion of the site and moved to the northern boundary to reflect the change in zoning at this point.
52. On the basis of the above, Rule 24.5.5 that requires buildings to be located a minimum of 50m from an identified landscape feature should be retained as notified.
53. In relation to Hunter Road I consider that Rule 24.5.4 in relation to the minimum road setback requirement of 75m be retained.
54. I concur with Mr Milne in relation to Rule 24.4.29 and that it should be restricted to planting located within the road setback distance rather than the entirety of the zone.
55. I oppose the notified wording of Rule 27.4.2(g) as this does not provide for the staged subdivision of land as a result of the applied non-complying activity status, even though the land may meet the minimum and average lot sizes prescribed within Chapter 27. I consider that an amendment should be made to Rule 27.4.2(g) to allow for the lot sizes of any prior subdivision of the land to be taken into account.



Amanda Leith.

13 June 2018

ANNEXURE A – TOPOGRAPHICAL PLAN OF THE SUBJECT SITE



SCALE:
WBLP = WAKAITPU BASIN LIFESTYLE PRECINCT

APPROX. SITE AREA SUBJECT
TO THE WBLP = 18.35HA

APPROX. SITE AREA NOT SUBJECT
TO THE WBLP = 5.0780HA

	DATA QUALITY STATEMENTS	
	<small>ADDITIONAL DATA</small> All data was collected using a Trimble SCAVO 2000 RTK GNSS receiver with a 5cm accuracy. The data was processed using a real-time kinematic (RTK) processing method. The accuracy of the data is dependent on the quality of the ground truth data and the quality of the GNSS signal.	
	<small>ADDITIONAL DATA</small> The data was collected on 11/12/2024 at 09:00 AM. The weather was clear and the visibility was good. The ground was dry and the terrain was relatively flat. The data was collected over a period of 30 minutes.	
<small>ADDITIONAL DATA</small> The data was collected using a Trimble SCAVO 2000 RTK GNSS receiver with a 5cm accuracy. The data was processed using a real-time kinematic (RTK) processing method. The accuracy of the data is dependent on the quality of the ground truth data and the quality of the GNSS signal.		
SITE PLAN		
LOT 2 DP 27282 75 HUNTER ROAD WAKAITPU BASIN		
DATE: 11/12/2024 TIME: 09:00 AM PROJECT: 470827_1_16		