

When replying please quote: 360/35/4/25 R Hammond

24 December 2010

~~T E and A Buchanan
C/- Bonisch Consultants
PO Box 1262
Invercargill 9840~~

Copies to: «Name»

Attention - Christine McMillan

Dear Miss McMillan

T E and A Buchanan - Private Te Anau Plan Change 8 - Te Anau Residential Zone B Resource Area - 44-86 Te Anau - Mossburn Highway, Te Anau

I am writing to advise that the abovementioned Private Plan Change application was considered by the Council's Resource Management Committee at a hearing held on Thursday, 19 August 2010 at the Distinction Te Anau Motel and Villas, 64 Lakefront Drive, Te Anau. That hearing was adjourned and reconvened on Monday, 22 November 2010 in the Southland District Council Chambers, Forth Street, Invercargill.

The Council's Resource Management Committee held on Thursday, 19 August 2010 was made up of the following representatives:

- **Cr A D Ridley, Chairperson and the Te Anau Ward Member**
- **Cr J D Copland**
- **Cr J R Douglas**
- **Cr R Dobson**

The Council's Resource Management Committee held on Monday, 22 November 2010, was made up of the following representatives:

- **Cr A D Ridley, Chairperson**
- **Cr J Copland**
- **Cr R Dobson**

(All above Committee members hold current Ministry for the Environment "Making Good Decisions Certificates". The other members of the Council's Resource Management Committee, being Crs Bailey, Duffy and Macpherson were unavailable. Though Cr Douglas was unavailable for the reconvened hearing the Committee still had quorum.

Also present at the hearing and reconvened hearing were the following Council staff:

- **Mr Roy Hammond, Processing Planner and Section 42A Reporting Officer**
- **Mr Bruce Halligan, Group Manager - Environment and Community**
- **Mr Perry Ferguson, Committee Secretary**

T E and A Buchanan (the applicants) were represented at the original hearing and reconvened hearing by:

- **Mr B Wilson, Director, Bonisch Consultants**

Submitters present at the hearing on Thursday, 19 August 2010 and heard by the Committee were:

- **Mr A J Henderson**
- **Mr E A Loose**
- **Mr G and Mrs M Booth**

Submissions were tabled on behalf of New Zealand Fire Service Commission and Environment Southland at the hearing on Thursday, 19 August 2010 and on behalf of Mr E A Loose and Mrs G M Bell at the hearing on Monday, 22 November 2010.

Mr A J Henderson was present at the hearing on Monday, 22 November 2010 in an observing capacity and did not participate.

The Hearing on Thursday, 19 August 2010:

Cr Ridley welcomed the parties and introduced Council representatives and staff.

STAFF REPORT

The staff report was tabled, and Roy Hammond, Section 42A Processing Planner spoke briefly in relation to this report, outlining the nature of the proposed Private Plan Change application, explaining the structure of the report, the key planning issues as he saw them and the overall recommendation. The staff report had previously been circulated to the Councillors, applicants and submitters prior to the hearing, in accordance with the requirements of the Resource Management Act 1991.

Mr Hammond expressed his view that the key matters requiring close scrutiny by the Resource Management Committee were:

- whether the proposal would prevent urban sprawl;
- whether the proposal would result in unconsolidated development away from the existing and expanded Te Anau Urban Resource Area;
- whether the proposal, having regard to the first two issues, would undermine the aims and objectives of Council initiated Plan Change 6 - 'Expansion of Te Anau Urban Resource Area';
- whether the proposal would result in an oversupply of land for housing;
- whether the proposal would result in an adverse effect on rural amenity values; and
- whether the proposal would potentially harm the vitality and viability of the Te Anau Town Centre.

THE APPLICANTS

Mr B Wilson

Mr Boyd Wilson presented a written Statement of Evidence on behalf of T E and A Buchanan in which he outlined the proposed Private Plan Change. He advised the Resource Management Committee (the Committee) that the proposal would achieve a spacious, comfortable residential environment which could contain recreational and light commercial facilities which would integrate into the greater Te Anau Township and would contain amenities and services which could be enjoyed by the wider community. Mr Wilson advised the Committee that the proposed Private Plan Change would ensure the prior approval of a Master Development Plan for the site by Council, so as to ensure that development would be carried out to achieve the desired outcome.

Mr Wilson highlighted to the Committee the inclusion of the Buchanan land in the Council - prepared discussion document for Te Anau ('Possible Te Anau Plan Changes' - June 2008) as an area of urban expansion and offered the view that the Southland District Council had previously considered the Buchanan block as a highly suitable area of land for the urban expansion of Te Anau. Mr Wilson also highlighted to the Committee that the applicants were trying to achieve a less intensive development than standard urban densities.

In the context of the Regional Policy Statement (RPS), Mr Wilson advised that the proposal met the objectives of the RPS in that the proposal would provide for an area of land which could be earmarked for future development when demand arises, that would maintain and enhance environmental quality of the region's built environment and that the proposal would minimise the adverse effects of the built environment on the natural and physical resources of the District. Mr Wilson also drew the Committee's attention to the RPS review and its move towards more-traditional "master planning" methods rather than reactive planning which he considered had been utilised in Southland in recent times and which he felt relied on a market lead development approach. Mr Wilson commented that the proposal would achieve the RPS review objective of ensuring the provision of robust planning frameworks.

In responding to the Processing Officer's Section 42A report, Mr Wilson commented to the Committee that the proposal would avoid satellite-town development of Te Anau and would provide future proofing of development in Te Anau, preventing development occurring on an ad-hoc basis only when demand arises.

In the context of the issue of loss of rural amenity values and productive rural land, Mr Wilson advised the Committee that the Buchanan land was identified in the recent Council commissioned Boffa Miskell Landscape Study as being an area of land which is less visually sensitive than some other areas which could potentially be developed for urban purposes in this locality. Mr Wilson also highlighted that the Planner's report acknowledges various benefits of the proposal and that the loss of the rural land would be justified in the future when demand for additional housing/commercial land supplies was identified.

In the context of the issue of whether the proposal would undermine the objectives of Council-initiated Plan Change 6 "Te Anau Urban Resource Area Expansion" (Plan Change 6), Mr Wilson advised the Committee that in his opinion the proposal did not constitute urban sprawl, it would result in a low density residential zone and should not be compared on a like-for-like basis with the Te Anau Urban Expansion Plan Change.

With respect as to whether or not the proposal would potentially harm the viability and vitality of the existing Te Anau town centre, Mr Wilson expressed the view that single-use areas result in urban sprawl and should be avoided, and that the commercial hub of Te Anau would still be the centre of the town with its focus around the lakefront, supermarkets, department stores and tourism operators. Mr Wilson pointed out to the Committee that under proposed Rule TRB.4 of the Private Plan Change, a supermarket and department store would be prohibited activities.

In respect of the absence of a Master Development Plan, Mr Wilson advised that the proposed Private Plan Change would leave the Buchanan property open to several development options, all of which would require a Master Development Plan to be submitted and approved by Council. Mr Wilson advised the Committee further that the Council, in the context of the Plan Change 6 stated that a structure plan would be developed following the adoption of any Urban Area Plan Change - Mr Wilson advised that the Buchanans were seeking to adopt the same approach for their site.

With regard to the lead contamination issue, Mr Wilson acknowledged that there is an area of lead contamination on the Buchanan property associated with the former Te Anau Gun Club. Mr Wilson further advised that, with the agreement of Environment Southland, the Private Plan Change proposal includes a 50 m buffer zone surrounding the identified contaminated land. Mr Wilson also pointed out to the Committee that the National Environmental Standard for Contaminated Land is due to be released in early 2011 and this National Environmental Standard (NES) will supersede the proposed Rule TRB.4 relating to the land contamination issue.

Mr Wilson confirmed to the Committee that the applicants were now offering controlled activity status for proposed subdivision of the land in lieu of the permitted activity status proposed in the Private Plan Change. Mr Wilson further advised the Committee that restricted discretionary status for subdivision would not be acceptable to the applicants.

Mr Wilson confirmed that there were no concerns from the applicants' perspective with Mr Hammond's recommendation to strengthen the requirement of proposed Rule TRB.5 in order to ensure connection to reticulated power and telecommunications. Mr Wilson further confirmed to the Committee that there was no objection to amendments to the Private Plan Change rules to ensure that there would be sufficient fire fighting water supply and on-site wastewater management for individual lots over two hectares in area.

With regard to height controls, Mr Wilson responded to Mr Hammond's recommendation that maximum height for accessory buildings be amended to 3.5 metres consistent with the Urban Resource Area rules. Mr Wilson reiterated to Committee that the proposal was not an Urban Resource Area Plan Change. Mr Wilson advised that the proposal provides for Council to exercise discretion over the external appearance of buildings, including the accessory buildings, with respect to the effect of visual values on the area and coherence with surrounding buildings. With regard to the recession plane, Mr Wilson agreed that to ensure consistency with the District Plan, the proposed recession plane rule would be amended accordingly.

Mr Wilson advised Committee that development contributions associated with the development of the land would continue to be collected under the requirements of the Long Term Community Council Plan and the District Plan.

Mr Wilson confirmed his agreement to the Committee that it was appropriate to include an additional rule in the proposed Private Plan Change to state that the remaining policies of the Operative Southland District Plan and its successor would apply.

Mr T E Buchanan

Mr Buchanan commented to the Committee that the seclusion of the Buchanan's property meant that the land could accommodate the development proposed in the Private Plan Change with only minor adverse effects. Mr Buchanan highlighted that Boffa Miskell recommended the property be included in future planning in its Te Anau Basin Growth Planning - Landscape Capacity Study.

With regard to the "Mystery Master Plan", Mr Buchanan commented to the Committee that the Buchanans had chosen deliberately to not publicly promote the Plan Change or lobby as there was no certainty that the development of this site would proceed, and pointed out that they are not property developers.

Mr Buchanan commented to the Committee that Mr Hammond interpreted the proposed retail component as being another hub for Te Anau. Mr Buchanan advised the Committee in response that the commercial component would not be another hub, but it may be a coffee shop adjacent to a golf complex.

With regard to the loss of productive land, Mr Buchanan advised the Committee that the property is already known as being a difficult property to farm.

Mr Buchanan commented to the Committee that Mr Hammond was right to disagree with the opponents of the second golf course and advised that two golf courses may bring additional visitors to Te Anau to the benefit of the wider community. Mr Buchanan further advised the Committee that he disagreed with some submitters concerns that the proposal would deplete the pool of voluntary labour assisting with the existing golf course in Te Anau.

Mr Buchanan advised the Committee that he disagreed with some submitter's views that the Buchanan property should become an industrial zone.

With regard to concerns about oversupply of sections in Te Anau, Mr Buchanan acknowledged that property development is struggling but that the right type of backer for the Buchanan land may be found. Moreover, Mr Buchanan advised the Committee that he questioned whether the existing sections available in Te Anau are what people really want and commented that the vacant sections may be being held by people wishing to develop in the future. Mr Buchanan advised the Committee in respect to the proposed Scenic Protection Zones 'A' and 'B' that there is an opportunity to deal with stormwater, an opportunity for amenity planting and also to create view shafts.

Mr Buchanan advised that a possible alternative to the proposed Private Plan Change would be to apply for subdivision under the current District Plan's provisions to create a few four hectare blocks. Mr Buchanan advised the Committee that, in his opinion, this approach would destroy the opportunity to look at the property as a 'blank canvas' and maximise its benefits.

Mr Buchanan also expressed the view that development to date in Te Anau had been reactive and not pro-active.

SUBMITTERS

Mr Loose

Mr Loose presented a written Statement of Evidence to the Committee in which he supported the proposed Private Plan Change and commented that there is a need for a more relaxed style of development with larger sections enabling a different lifestyle in Te Anau while still being close to the central business district and industrial area of Te Anau. Mr Loose further commented to the Committee that the Buchanan land is not highly productive farm land and is impossible to irrigate. Moreover, Mr Loose commented to the Committee that the site is geologically sound and not visually prominent. Mr Loose concluded that the development would offer quality sections and urged the Committee to approve the proposed Private Plan Change.

Mr Henderson

Mr A J Henderson presented a written Statement of Evidence in which he supported the proposed Private Plan Change and observed that the site is large and closer to Te Anau than other potentially available areas. Mr Henderson advised the Committee that if the opportunity to develop the land is lost there would be a lack of choice of sections on the market in two to three years' time. Mr Henderson commented to the Committee that if global warming continues, Te Anau will become a desirable place to live.

With regard to servicing the development, Mr Henderson expressed the view that it would be more cost effective to develop the Buchanan land, 1.5 km from Te Anau Town Centre, than to service smaller more diverse developments on an ad-hoc basis.

Mr and Mrs Booth

Mr and Mrs Booth did not present a written Statement of Evidence. Mrs Booth questioned whether the residents of the proposed Private Plan Change development would be local residents or holiday makers, and if holiday makers, Mrs Booth questioned whether they would want such big sections as those proposed in the Private Plan Change.

New Zealand Fire Service

A written submission prepared by Kristina Mead of Beca Carter Hollings and Ferner Limited was tabled by the New Zealand Fire Service (NZFS) at the hearing. NZFS pointed out to the Committee that their original submission sought an assurance that the water supply to the rezoned area met the NZFS's Code of Practice of Water Classification of FW3 requirements. NZFS acknowledged that the processing planner's report stated that there is sufficient infrastructural provision to achieve a FW2 water supply and Council could seek to secure sufficient water supply for fire fighting purposes as part of the subdivision consent process. NZFS further stated that for these reasons it did not consider it necessary to be heard at the hearing.

Mr Swinney - Policy and Planning Manager, Environment Southland

A written submission was tabled by Mr Swinney, Policy and Planning Manager, Environment Southland (ES) at the hearing.

With regard to the contaminated land issue, ES advised that it was satisfied that the approximate area of contamination was adequately identified and understood. ES commented further to the Committee that it has been assured and that it fully expected that the issue of the contaminated area would be dealt with in full if and when any later subdivision proposal was lodged. ES advised that prior to any subdivision, a full investigation of the contamination should take place along with a comprehensive plan to remove and/or remediate the contaminated land all at the cost of the developer at that time. ES further advised that in advance of the Plan Change being approved it would identify the contaminated area including the proposed buffer zone on the Regional Contaminated HAIL Register.

With regard to urban growth, ES advised the Committee that in collaboration with the District Council it was currently reviewing the RPS and District Plan. ES further advised that one of the major topics that had been identified by the public was the objective of a co-ordinated and managed approach to urban growth, and that the two councils had therefore been looking at policies to facilitate this, including identifying areas suitable for future urban growth. ES commented to the Committee that without this further direction in the RPS and District Plan in respect of urban growth, both councils run the risk of having individual land owners and developers dictate how demand is provided for into the future. ES further advised that through the RPS and District Plan, councils are looking to ensure growth management strategies and structure plans become the norm, particularly where large scale land use changes are proposed. ES concluded that it was keen to ensure that the new philosophy relating to a new development and urban growth movement is taken into account during the deliberations on the Private Plan Change proposal.

The Hearing then adjourned for a one hour period while the applicant formulated their reply.

APPLICANTS SUMMATION/REPLY

Mr B Wilson

Mr Wilson advised the Committee that he felt the submitters made valid points regarding servicing. Mr Wilson confirmed to the Committee that servicing requirements of the development could be met and all costs would be met by the developer at the time. Mr Wilson observed to the Committee that land is well connected by reason of its relationship to Te Anau and therefore servicing costs would be less than the servicing costs associated with a satellite development. In response to Mrs Booth's evidence, Mr Wilson advised the Committee that by reason of "buyer-dynamics", the make-up of ownership of the site would consist of both resident and absentee owners. Mr Wilson commented that it is likely, however, to be targeted at the higher end of the market.

With regard to NZFS's evidence, Mr Wilson acknowledged to the Committee that NZFS raised no objection and that there were suitable engineering solutions to meet NZFS's water requirements.

With regard to the lead contamination issue and ES's tabled written Statement of Evidence, Mr Wilson advised the Committee that it should not be concerned with the lead contamination issue at this stage. Mr Wilson also acknowledged ES's support for long term strategies for future growth.

Mr T E Buchanan

Mr Buchanan advised the Committee that there would be systems in place for absentee owners and there would be containment fencing of the development during the construction phase. Moreover, Mr Buchanan advised that adequate measures would be put in place to control grass during the development phase.

With regard to the lead contamination issue, Mr Buchanan expressed the view that the contaminated area, in terms of a solution, could be formed into bunds on-site as part of landscaping, or added to the side of an existing terrace on the land, so there were numerous options available in detailed design to address this.

Mr Buchanan concluded that the aim of the proposed Private Plan Change was to define the future of the property based on a long term view and direction and that development of the land would be complementary to Te Anau.

The Committee then moved into "public excluded" to consider its decision, as is provided for by Section 48 of the Local Government Official Information and Meetings Act 1987 as there is a Right of Appeal to the Environment Court in relation to this decision.

It was moved, after considerable detailed discussion, by Councillor Copland and seconded by Councillor Douglas that the Hearing be **adjourned** to seek further clarification on the following matters:

- Mechanisms to ensure lower density development;
- Confirmation of subdivision as a controlled activity and consideration of restricted discretionary activity status for subdivision;
- Definition of large scale commercial development;
- Confirmation of the extent of Scenic Protection Zones 'A' and 'B';
- Confirmation of the maintenance responsibility of the Scenic Protection Zones A and B; and
- Further clarification of how the proposal meets the requirements of New Zealand Transport Agency (NZTA).

The Hearing adjourned at **4.30 pm on Thursday, 19 August 2010.**

The applicants supplied the additional information on the matters requiring further clarification by the Resource Management Committee on the 22 September 2010 and this information was circulated to all parties for information on the 24 September 2010.

The Hearing reconvened on Monday, 22 November 2010.

Cr Ridley welcomed the parties to the reconvened hearing and reintroduced Council representatives and staff.

STAFF REPORT

The staff report in respect of the further information provided by the applicants was tabled, and Roy Hammond, Section 42A Processing Planner spoke briefly in relation to this report, outlining the matters requiring further clarification by the Resource Management Committee, highlighting that the further information provided additional clarification of the issues raised by Committee and re-iterating the recommendation that the application for a Private Plan Change be declined. The staff report had also previously been circulated to the Councillors, applicants and submitters prior to the hearing.

Summary of Changes to the Private Plan Change Rules Proposed by Applicant

The following key changes were made by the applicants to the Private Plan Change Rules following the original hearing and in response to the matters requiring further clarification by the Resource Management Committee:

- Provision of Scenic Protection Zones 'A' and 'B', the extent of which are shown on drawing number 2454 - SP1a;
- Provision of a 40 metre building set back from Scenic Protection Zone 'A', the extent of which is shown on drawing number 2454 - SP1a;
- A maximum development site coverage of 15% required by Rule TRB.4;
- A maximum of 350 individual allotments required by Rule TRB.6;
- The requirement for the approval of a Master Development Plan by Council required by Rule TRB.5 and TRB.6;
- Provision of prohibited activity status for subdivision of the land in the absence of approval by Council of a Master Development Plan;
- A requirement that "large scale commercial" activity has prohibited activity status with "large scale commercial" to include any retail activity over 400m² in floor area, required by Rule TRB.5;
- A requirement for the Master Development Plan to be proposed in consultation with infrastructure service providers, including New Zealand Transport Agency, required by Rule TRB.6;
- A requirement for Travel Demand Management to be taken into account in the preparation of the Master Development Plan which would include identifying the trigger for a requirement for the provision of a roundabout at the junction of the proposed site access and Te Anau - Mossburn Highway, required by Rule TRB.6; and
- Provision of a 50 metre buffer zone around the area of lead contamination within which any activity, apart from subdivision, is prohibited, until such a time as a full risk assessment and remedial works have been undertaken.

THE APPLICANTS

Mr B Wilson

Mr Boyd Wilson presented a further written Statement of Evidence on behalf of T E and A Buchanan in which he highlighted to the Committee the matters requiring further clarification by the Resource Management Committee following the adjournment of the hearing on Thursday, 19 August (as set out above).

Mr Wilson then responded to the Committee with respect to the processing planner's further report which discussed the further information provided.

Mr Wilson urged the Committee, that although the applicant was of the opinion that the site coverage requirement of 15% would result in a low density development on the Buchanan land, the applicants proposed a zone rule which would allow a maximum of 350 allotments to be created on site. Mr Wilson acknowledged Mr Hammond's agreement that 15% site coverage would provide greater certainty of lower density development. Mr Wilson observed, however, that Mr Hammond still considered that the proposal would result in an over-supply of land for housing in the Te Anau area. Mr Wilson re-iterated to the Committee that the aim of the Plan Change was to future-proof development and growth in the Te Anau area basin and repeated his observation that the Buchanan land had been identified in successive Council planning discussion documents as ideal for urban expansion in Te Anau. Mr Wilson observed that Mr Hammond stated in his first report to the Committee that continued growth in Te Anau would necessitate the development of the Buchanan land at some stage in the future.

Mr Wilson advised the Committee that the proposed Private Plan Change would allow for the land to continue to be utilised as a farming unit until sufficient demand arises for residential land in the Te Anau area. Mr Wilson concluded that refusal of the Private Plan Change application on the basis that there is currently no demand for residential housing would be without merit.

With regard to the issue of the activity status of subdivision, Mr Wilson advised the Committee that as observed in Mr Hammond's report, the applicant was agreeable to subdivision, following the submission of a Master Development Plan, having controlled activity status. Mr Wilson re-iterated that restricted discretionary status would be too onerous and would allow Council to reject the proposed subdivision through the Master Development Plan process.

With regard to clarification of large scale commercial activity, Mr Wilson acknowledged Mr Hammond's statement that the Private Plan Change land could include retail units with greater retail floor areas than some of the existing retail floor areas in Te Anau Town Centre. In response, Mr Wilson advised the Committee that he failed to see the relevance of this to the proposal. Mr Wilson further advised that the maximum footprint as proposed in the proposed Private Plan Change sought to ensure that large scale commercial activity could not be established and retail be limited to light commercial activity as defined within the proposed Private Plan Change. Mr Wilson observed further that it was not the intention of the applicants that council should control the types of commercial activity established on-site once a Master Development Plan is in place. Mr Wilson further advised the Committee that council controls over what may not be established on-site would be set through the proposed activity rules and Rule TRB.5 of the Private Plan Change.

Mr Wilson disagreed with Mr Hammond's concerns in respect of the impact of the proposal on the viability and vitality of Te Anau Town Centre. Mr Wilson commented to the Committee that the Te Anau Town Centre and foreshore would always be the focus for residents and visitors and that the large scale supermarkets are located in the town centre and these would not be permitted on the Plan Change land. Mr Wilson also observed that tourism operators would continue to operate out of the main town centre. Mr Wilson commented to the Committee that the Buchanan land is not on the main transport route to Te Anau and the Buchanan development would generally be observed as a low density residential area.

With regard to the maintenance of the Scenic Protection Zones, Mr Wilson confirmed to the Committee that the Scenic Protection Zone 'B' would remain in private ownership and Scenic Protection Zone 'A' would be maintained by either Council or held and maintained by private landowner/s.

Mr Wilson confirmed to the Committee that in respect of NZTA's requirements, the applicant had agreed to a requirement for Traffic Demand Management to be taken into consideration (Rule TRB.6 (2)) and a requirement to consult with NZTA during the development of the Master Development Plan (Rule TRB.6 (6)).

Mr Wilson concluded that the proposed Private Plan Change provided an opportunity for the Committee to future proof development in Te Anau by providing an area of land with sound design controls in place, ready to be implemented when demand for such development arises. Mr Wilson re-iterated to the Committee that the development of the proposed Private Plan Change land would result in a spacious, low density area with the ability to cater for mixed use activities while still retaining good connectivity to the Te Anau township and the existing commercial centre.

SUBMITTERS

The applicants raised no objection at the hearing to the tabling at the hearing of additional submissions from Mrs G Bell and Mr E A Loose.

Mrs G Bell

Mrs G Bell tabled a written submission at the hearing in which she opposed the application, commenting to the Committee that the proposal related to existing productive farmland in the Plains Resource Area on which the landowners proposed an inappropriate leisure development. Mrs G Bell commented that there are a number of residents of Te Anau who do not want to see Te Anau develop into another Queenstown. Mrs G Bell further commented that the proposal should be considered in a public hearing and be openly and frankly discussed and debated by the people of Te Anau. Mrs G Bell considered that the residents of Te Anau needed to ask 'what is our defining difference' that makes Te Anau stand out and provide an attractive place for people to live and visit.

Mrs G Bell questioned the wisdom of allowing the waste of existing productive farmland given that the wealth of a nation is that which is directly derived from its land. G Bell highlighted the effects of global warming now and in the future, warned of potential shortages of agri-fertilisers and consequential falls in food production at a time when populations continue to grow. Mrs G Bell highlighted that allowing the trend of urban sprawl and loss of productive farmland was foolish and unsustainable without consideration of the long term consequences.

Mr E A Loose

Mr Loose tabled a written submission at the hearing in which he commented, in supporting the proposal, that the further information provided by the applicants further strengthened his view that the Private Plan Change land would be a very good place to live and bring up a family.

APPLICANT'S SUMMATION/REPLY

In conclusion, Mr Wilson observed that the principal issue that had arisen from the reconvened hearing and Council's comments was the issue of the status of subdivision, ie, whether it should remain as a controlled activity as offered in the additional information or whether subdivision should have restricted discretionary status to provide Council with more certainty and control over design and ability to decline inappropriate development through the Master Development Plan process.

Mr Wilson confirmed in response to the Committee that the applicants were now agreeable for subdivision, subject to a Master Development Plan having previously approved, to have restricted discretionary status provided that the proposed Private Plan change rules were revised to provide that an application for subdivision be processed on a non-notified basis, without written approval of any potentially affected parties and determined under delegated authority at staff level, and that should a dispute arise in terms of the design of the development, the application would be reported to the Resource Management Committee to consider and determine.

The Committee then moved into "public excluded" at 10.45 am to consider its decision, as is provided for by Section 48 of the Local Government Official Information and Meetings Act 1987 as there is a Right of Appeal to the Environment Court in relation to this decision (Moved Cr Bailey, seconded Cr Douglas).

THE DECISIONS ON SUBMISSIONS

Pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, the Committee carefully considered each submission to the Private Plan Change and resolved to make the following decision in respect of each submission.

Submissions in Support

3. E A Loose
5. David Thomas Healy
6. Gary Andrew Barnes
9. Te Ao Mārama Incorporated
10. Fish and Game Southland
18. Arthur John Henderson

The submissions in support of proposed Private Plan Change 8 were **accepted** by the Resource Management Committee for the reasons set out in the section 'Reasons for the Decision'.

Submissions in Conditional Support

1. Noeline Lois Evans
7. Alan Ronald Petrie
8. Neil Rutherford Borland

The submission of conditional support by Noeline Lois Evans, which is subject to concerns in respect of the ability of existing services to cope with the development, is **accepted in part** and **rejected in part** by the Resource Management Committee for the following reasons:

The Committee agrees with the submission that the Private Plan Change is a good idea but rejects the submission that existing water and sewerage services in Te Anau would not be able to cope. The Committee considers, based on advice from other Council's Water and Waste Services Department, that there is sufficient capacity within existing reticulated Council services in Te Anau, to meet demand arising from development of the Plan Change land.

The submission of conditional support by Alan Ronald Petrie, which is subject to an increase in the extent of Scenic Protection Zone 'A', is **accepted** by the Resource Management Committee for the following reason:

The applicants have confirmed, through Rule TRB.5 that Scenic Protection Zone 'A' extends in depth from the northern allotment boundary to the northern most top edge of the first terrace, and in addition, a 40 metre building set back, extending the length of Scenic Protection Zone 'A', is provided from the northern most top edge of the first terrace, as shown on drawing 2454 - SP1a.

The submission of conditional support by Neil Rutherford Borland, which is subject to comments in respect of the level of subdivision and whether such a large area should be subdivided by two individuals is **accepted** by the Resource Management Committee for the reasons set out below for approving the Private Plan Change and given that the number of allotments is restricted to 350 by the Rule TRB.6 of the Private Plan Change.

Submissions that Neither Support or Oppose

13. New Zealand Fire Service Commission (NZFS)
14. Director General of the Department of Conservation
15. Environment Southland
19. New Zealand Transport Agency (NZTA)

The neutral submission by NZFS which makes comments in respect of the adequate supply of water supply for firefighting purposes is **noted** by the Resource Management Committee for the following reasons:

Based on the information contained in the application, and advice received from other Council departments, the Committee is satisfied that there is no reason why an FW2 supply to meet NZFS's requirements for fire fighting purposes cannot be achieved for reticulated development on sites less than 2 ha in area on the Private Plan Change Land and for individual dwellings on sites of greater than 2 ha in area, as part of the Master Development Plan and subdivision process.

The Committee acknowledges that Council's Water and Waste Department confirmed that there is sufficient water take capacity to supply a population of approximately 23,000 and if demand is higher, the water plant serving Te Anau is designed to allow for an upgrade to provide for additional capacity. Moreover, the Committee acknowledges that for dwellings on sites in excess of two ha in area, sufficient water for an FW2 supply for firefighting purposes can be provided by on site rainwater harvesting.

The neutral submission by the Director General of the Department of Conservation, which makes comments in respect of the requirement for all subdivisions within 500 metres of the boundary of an Urban Resource Area be required to connect to existing reticulated sewerage services is **noted** by the Resource Management Committee for the following reasons:

The Committee acknowledges that Council's Subdivision and Land Development Bylaw 2005 requires that connection to existing services, including reticulated sewerage, will be required where the centre of a subdivision falls within 500 metres of existing services or an Urban Resource Area. The Committee also acknowledges that the application confirms that all future allotments below 2 hectares in area would be connected to the Council's reticulated sewerage system.

The neutral submission by Environment Southland, commenting on potential contamination of the Private Plan Change land arising from the use of part of the site by the former Te Anau Gun Club and agricultural activity is **noted** by the Resource Management Committee for the following reasons:

The Committee considers that the lead contamination issue, arising from the use of part of the site by the former Te Anau Gun Club, has been adequately addressed. The Committee notes Environment Southland's tabled evidence to the original hearing in which Environment Southland advises that it is satisfied that the approximate area of contamination is adequately identified and understood and that it expects that the issue of contamination, including comprehensive plan to remove and/or remediate the contaminated land, will be dealt with in full at the time of subdivision.

The neutral submission by NZTA commented on potential conflict with Council Plan Change 6, the requirement for the preparation of a Master Development Plan before development of the land and for NZTA to be consulted as part of that preparation. Moreover, NZTA commented that the Council should be satisfied that, when considering whether the potential effects of proposals for urban growth are minor that the proposal will:

- (i) improve the ability to undertake multi-purpose trips to destination nodes;
- (ii) reduce the distances that need to be travelled in order to reach destination nodes;
- (iii) support a choice of travel modes that prioritises walking, cycling and public transport; and
- (iv) capitalise on and/or establish opportunities for destination nodes to provide access to a comprehensive mix of goods, services and activities.

NZTA also commented that subdivision should have restricted discretionary status.

The comments of NZTA is **noted** by the Resource Management Committee for the following reasons:

The Committee considers that subdivision should have restricted discretionary status rather than permitted or controlled activity status, as highlighted as an issue by NZTA, and is minded to approve the Private Plan Change subject to this requirement. The Committee considers that restricted discretionary activity status would allow Council the opportunity to decline subdivision if the NZTA had concerns. The Committee notes that subdivision would have prohibited activity status if a Master Development Plan has not previously been approved by Council. The Committee also notes that Rule TRB.6 provides for infrastructure providers, including NZTA, to participate in the preparation of the Master Development Plan which, amongst other matters, will allow for travel demand management issues to be adequately had regard to.

Submissions in Opposition

2. John Roy Orbison
4. Bill Verrall
11. George J and Margaret E Booth
12. Robert Hunter Milne
16. James Frederick McMurtrie
17. Glenda Margaret Bell

The submissions in opposition by Bill Verrall, George J and Margaret E Booth and Robert Hunter Milne which, in summary, raise the issue of an over-supply of development land and sections in Te Anau, are **rejected** by the Resource Management Committee for the reasons for approval of the Private Plan Change set out below.

The submission in opposition by John Roy Orbison is **rejected** by the Resource Management Committee for the following reasons:

The Committee disagrees with the submitter's concerns in respect of an over-supply of subdivisions in Te Anau for the reasons for approving the Private Plan Change set out below. Moreover, with respect to the submitter's concerns in respect of impact on the existing Te Anau Golf Course, the Committee considers that, whilst the concerns are acknowledged, there is no evidence to suggest that there is no demand for a second golf course in Te Anau or that the pool of volunteer labour for the existing golf course would be diluted. Furthermore, the Committee considers that Council, in considering the effects and impact on the existing golf course needs to be careful to avoid trade competition issues, as required by the Resource Management Act 1991.

The submission in opposition by James Frederick McMurtrie is **rejected** by the Resource Management Committee for the following reasons:

The Committee disagrees with the submitter's concerns in respect of an over-supply of subdivisions in Te Anau for the reasons for approving the Private Plan Change set out below. Furthermore, the Committee disagrees that the proposal will put extra pressure on the town facilities which are struggling to keep up. The Committee acknowledges that Council's Water and Waste Services department has confirmed, subject to provision of adequate infrastructure at the developer's cost, that the existing water and waste water services in Te Anau have sufficient capacity to accommodate the increase in demand that would result from the proposed Private Plan Change. The Committee considers that there is no evidence to suggest that telecommunication and power services, which are available in the vicinity of the site, would be unable to accommodate increased demand arising from the Private Plan Change. Moreover, the Committee considers that an increase in population associated with the Private Plan Change could help support existing services, particularly out of holiday season, and could result in the attraction of additional services to the town.

The submission in opposition by Glenda Margaret Bell is **rejected in part and accepted in part** by the Resource Management Committee for the following reasons:

The Committee disagrees with the submitter's concerns in respect of an over-supply of subdivisions in Te Anau for the reasons for approving the Private Plan Change set out below. The Committee considers that concerns about impact on the future growth and vitality of the town centre have been adequately addressed in the application including in particular by providing that large scale commercial activity, which includes retail activity over 400 m² in floor area, as a prohibited activity. Moreover, the Committee considers, in respect of the submitter's concerns about the need for a second golf course, that there is no evidence to suggest that there is no demand for a second golf course.

The Committee agrees, for the reasons given below for approval, that the Private Plan Change land is suitable for future recreational development. The Committee considers that given its support for lower density residential development of the land, for the reasons set out below, industrial use, which has prohibited activity status in the Private Plan Change, would be incompatible on the land.

THE DECISION

(Moved Cr Copland, seconded Cr Dobson)

Pursuant to Section 11 of Schedule 1 of Part 1 of the Resource Management Act 1991, the Southland District Council hereby resolves to **approve the Private Plan Change to create Te Anau Residential Zone B Resource Area** to facilitate a future low density residential development of the Plan Change area **subject to amendments made as a result of the hearing committee's decisions.**

OBJECTIVES, POLICIES, RULES FOR TE ANAU RESIDENTIAL B SUB AREA

Objective 1: To enable development incorporating residential activities, visitor accommodation, small-scale commercial activities and outdoor recreation – with appropriate regard for landscape and visual amenity values, servicing and public access issues.

Policies:

1. To ensure an adequate level of sewage disposal, water supply and refuse disposal services are provided which do not have more than minor impact on water or other environmental values on or off the site.
2. To require development to be located to ensure the compatibility of activities and to mitigate adverse effects on neighbouring activities, the road network and landscape values.
3. To ensure that subdivision, development and ancillary activities have regard to landscape values.
4. To require the external appearance, bulk and location of buildings to have regard to the landscape values of the site.
5. To ensure that areas identified on the Zone map as visually sensitive are kept free of residential and/or commercial development.

Methods

The objectives and associated policies will be implemented through a number of methods including:

- (i) District Plan
 - Rules designed to avoid, remedy or mitigate the effects of use and development of land
- (ii) Other methods
 - Development Controls, and design Guidelines in respect of buildings and landscaping
 - Covenant Document

Anticipated Environmental Results

- (a) Preservation of open space and rural amenity
- (b) Exclusion or mitigation of activities which cause adverse environmental effects through the use of performance standards
- (c) Ensuring traffic safety on local roads and State Highway 94.
- (d) A development which complements the rural lakes environment of the Te Anau Basin.

RULES

Rule TRB.1 - Permitted

- (a) Agricultural Activity that uses land and buildings for the primary purpose of the production of vegetative materials and/or livestock.
- (b) Residential Activity which complies with the relevant performance standards in PS.1.
- (c) Any activity which complies with PS.1 and is not managed by another rule in this plan.

Rule TRB.2 - Restricted Discretionary

- (a) Subdivision of land in the Te Anau Residential Zone B Resource Area. The matter to which the Council has restricted its discretion is:
 - i. Compliance with the provisions of the Master Development Plan that was prepared in accordance with MDP.1.
- (b) The following shall be restricted discretionary activities provided they comply with PS.1.
 - i. Recreational Facilities
 - ii. Visitor accommodation
 - iii. Commercial Activity
 - iv. Health Care activity
 - v. Residential Care activity
 - vi. Buildings
 - vii. Landscaping – Scenic Protection Area

The matters to which Council restricts its discretion are:

- i. the external appearance of buildings with respect to the effect of visual values on the area and coherence with surrounding buildings
- ii. infrastructure and servicing
- iii. associated earthworks and landscaping
- iv. access and parking
- v. bulk and location
- vi. exterior lighting

TRB.3 - Discretionary Activities

- (a) The erection of any building resulting in site coverage over the Te Anau Residential B Resource Area being greater than 15%
- (b) The erection of any building exceeding 6 metres in height measured from ground level, measured at any point and the highest part of the building immediately above that point.
- (c) Buildings directly associated with services which do not comply with the Master Development Plan
- (d) Educational Activity
- (e) Any earthworks that exceed 1,000m³ in volume or 2,500m² of exposed topsoil at any time.
- (f) Any activity that does not comply with one or more of the zone standards and is not listed as a prohibited activity.

TRB.4 - Prohibited Activities

- (a) Any subdivision activity that is not provided for by TRB.2(a).
- (b) Industrial activities – as defined in the District Plan.
- (c) Commercial retail activities with a floor area exceeding 400m².
- (d) Any structure/building within the Scenic Protection Zone fronting the State Highway.
- (e) Any activity, other than subdivision, which will result in a change in land use within the 50 metre buffer zone and/or lead contamination area where there has not been a full risk assessment undertaken and remedial works completed.

MDP.1 – Master Development Plan

- (a) A Master Development Plan for the Te Anau Residential Zone B Resource Area must be approved by Council prior to any subdivision activity occurring.
- (b) The Master Development Plan must be prepared in consultation with the affected infrastructure providers including the NZ Transport Agency.
- (c) The Master Development Plan must allow for:
 - i. a maximum site coverage of 15% over the entire zone
or
 - ii. a maximum of 350 lots

Matters that Council shall have regard to when considering a Master Development Plan

- (1) The exercise of Council's control in respect to subdivision shall be limited to the following:
 - i. Roading pattern
 - ii. Indicative subdivision design and lot configuration and allotment sizes
 - iii. Mitigation measures for buildings visible from State Highway
 - iv. Proposed setbacks from roads and internal boundaries
 - v. Provision of pedestrian linkages
 - vi. Provision of reserve/recreation land
 - vii. Proposed landscaping to be situated on any road reserve or other land intended to be accessible to the public
 - viii. The maintenance of view shafts
 - ix. The Design Guidelines which will apply to all buildings erected within the area subject to the Master Development Plan.

- (2) The extent to which the proposal provides for, or will promote, mechanisms to manage demand to travel, or will utilise and/or capitalise on existing mechanisms to manage demand to travel.
In considering whether the potential effects of proposals for urban growth are minor Council should be satisfied that the proposal will:
- i. improve the ability to undertake multi-purpose trips to destination nodes
 - ii. reduces the distances that need to be travelled in order to reach destination nodes
 - iii. supports the choice of travel modes that priorities walking, cycling and public transport
 - iv. capitalises on and/or establishes opportunities for destination nodes to provide access to a comprehensive mix of goods, services and activities.
- (3) The exercise of Council's control in respect to landscaping scenic protection area shall be limited to:
- i. All landscaping
 - ii. Species proposed
 - iii. Long term management considerations
 - iv. Maintenance of view shafts

PS.1 - PERFORMANCE STANDARDS

(a) Setbacks from Roads and Internal Boundaries

- i. No building or structure shall be located closer than 6 metres to a legal road reserve boundary.
- ii. No building or structure shall be located within Scenic Protection Zones A or B.
- iii. No building shall be located within 40 metres of Scenic Protection Zone A.
- iv. No building or structure shall be erected closer than 2 metres to a side boundary.

(b) Permeable Areas and Accessory Buildings - Residential Allotments

- i. Site coverage for any building or structure constructed shall be no more than 15% of the available lot area.
- ii. Accessory buildings with a floor area greater than 80m² shall be assessed as a discretionary activity.
- iii. A minimum of 60% of the front yard area must be permeable surface.

(c) Height Controls

- i. Maximum height of any building or structure shall be 6 metres.
- ii. No part of any building shall project above a 45° recession plane measured from any point 2 metres above existing ground level along any boundary of the site.

(d) Lighting

- i. All fixed lighting shall be directed away from adjacent roads and properties
- ii. Any building or fence constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with non-reflective finish
- iii. No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any adjacent property, measured at any point inside the boundary of the adjoining property.

(e) Servicing

- i. Any allotments under 2 hectares in area must be connected to Councils reticulated services.
- ii. All new connections to services including power and telecom are to be reticulated underground

(f) Other

- i. No goods, materials or equipment shall be stored outside a building, except for vehicles associated with the activity

(g) Noise

- i. Non residential activities shall be conducted so the following noise limits are not exceeded at any point within the boundary of the residential activities:
 - Daytime 0800-2000 hours 50dBA L10
 - Nighttime 2000-0800 hours 40dBA L10
- ii. All operation of construction equipment, during both subdivision and building construction processes is to be restricted to the hours of 7.00 am to 7.00 pm Mondays to Saturdays.

REASONS FOR DECISION

The reasons for this decision are:

- (a) The Committee considers that the proposed Private Plan Change land is an appropriate location for future growth relating to Te Anau for a lower density and well connected development by reason of the proximity to the existing township, existing facilities and employment opportunities.
- (b) The Committee further considers that the close proximity of the site to Te Anau and the ability and willingness to connect to existing services will provide for well planned, integrated and cost effective services compared to other potentially available sites for future development more divorced from the township of Te Anau.
- (c) The Committee considers, based on the assessment of the land contained in the 'Te Anau Basin Growth Planning - Landscape Capacity Study' dated April 2006 undertaken on Council's behalf by Boffa Miskell, that the site has the landscape capacity to accommodate the type and level of development envisaged for the Private Plan Change land without significant adverse effects on the character and appearance on the area and in particular the rural and scenic approach to Te Anau.
- (d) The Committee considers that there is significant merit in rezoning the land through the Private Plan Change process to provide for a well planned, structured and appropriately serviced development of the land for the future, to accommodate future demand for growth, and thereby avoiding ad-hoc and reactive subdivision and development around the periphery of Te Anau.
- (e) The Committee is satisfied that the Private Plan Change will provide greater certainty for the development of the land to the benefit of the township and in the interests of good resource management generally. Moreover, the Committee is satisfied that the Private Plan Change provisions will allow Council and other relevant stakeholders, including NZTA, the opportunity to participate in the formulation of the Master Development Plan, leading to a quality planned and attractive living environment whilst minimising adverse effects on the environment.

- (f) The Committee is satisfied, based on the evidence provided during the hearing by the applicants, that the land which is the subject of the Private Plan Change is recognised as not being particularly productive farm land by reason of the soil type and underlying geology, and that there is more productive farmland elsewhere in the Te Anau area.
- (g) The Committee is satisfied that the provision of Private Plan Change rules restricting the maximum site coverage of development on the land to 15%, and imposing a maximum of 350 individual lots on the land, will ensure that the vision of creating a lower density development, different to the majority of the recent development in Te Anau, is secured by way of these limitations.
- (h) The Committee considers that making provision in the Private Plan Change rules for subdivision to have restricted discretionary activity status following approval of a Master Development Plan, will provide Council with more certainty, confidence and greater control over the design of future subdivision of the land which is the subject of the Private Plan Change.
- (i) The Committee considers that the further information provided by the applicants in respect of the responsibility and maintenance of the Scenic Protection Zones and meeting the requirements of the New Zealand Transport Agency, including in particular the timing/trigger for the roundabout at the junction of the site access, State Highway and Sandy Brown Road, is satisfactory. Furthermore, the Committee is satisfied that the definition of large scale commercial development has been satisfactorily resolved and the Private Plan Change provides adequate controls and remediation mechanisms in respect to the lead contamination issue.
- (j) The applicants stated at the hearing that the activity status of subdivision could be amended from a controlled activity to a restricted discretionary activity subject to an application for subdivision being processed on a non-notified basis, without written approval of any potentially affected parties and determined under delegated authority at staff level, and that should a dispute arise in terms of the design of the development, the application would be reported to the Resource Management Committee to consider and determine. The Committee has considered this matter further and following legal advice considers that whilst subdivision should have restricted discretionary status, there is no legal mechanism to provide for this method of processing consents now that s94D of the RMA has been repealed. Such a commitment would be contrary to the requirements of Sections 95A to 95E of the Resource Management Act 1991.

You are reminded of the right of appeal which exists in relation to this decision, in accordance with Clause 29 of Schedule 1 of the Resource Management Act 1991.

It is suggested that if you wish to lodge an appeal, the provisions of the Resource Management Act 1991 are referred to in order to ensure that the appeal is lodged in the appropriate format. Any appeal should be lodged with:

**The Registrar
Environment Court
PO Box 2069
Christchurch 8140**

and a copy served on the Council and submitters. Any appeal is required to be lodged within 15 working days of the receipt of this decision.

If you require any additional information or clarification, please do not hesitate to contact the undersigned on 0800 732 732.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Roy Hammond', written in a cursive style.

Roy Hammond
RESOURCE MANAGEMENT PLANNER - CONSENTS