Summary of Evidence – Speaking Notes

1. Kia Ora, my name is Elizabeth (Liz) Williams, and I am a RM Planner at Te Papa Atawhai, the Department of Conservation. Thank you for hearing me today.

2. Although this is a Council hearing, I have complied with the code of conduct for expert witnesses as contained in clause 9 of the Environment Court's Practice Note 2023 when preparing my written and summary statement of evidence. I am a full member of the New Zealand Planning Institute and have over 15 years in resource management planning including roles in consenting and plan development.

3. The Director-General lodged a submission on the proposed application on 12 October 2023, which opposed the application with concerns relating to indigenous biodiversity, heritage, lizard management and inconsistencies with higher order documents and the provisions of the Central Otago District Plan. In my evidence I highlight the relevant statutory planning documents which support the DG's submission and my evidence in chief.

4. Council is required to address indigenous biodiversity and heritage as part of the s104 assessment in accordance with Part 2, Section 6(c) and (f) of the Act which requires the protection of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of heritage values from inappropriate subdivision, use and development. As described in the evidence provided by Mr Ewans and Dr Schmidt the site contains significant indigenous vegetation and significant heritage values. The proposed application will result in significant adverse effects on indigenous vegetation and historic heritage.

5. Mr Ewans addresses the gaps in information relating to the baseline data for the site on Threatened and At-Risk plants present at the site. Without this data, it is not possible to determine the full effects of the proposed development or give adequate consideration of the effects management regime, including biodiversity offsetting and compensation. Given this uncertainty, it is my recommendation that the application be declined under s104(6) on the basis that there is not adequate information submitted.

6. Given the above uncertainty around the adequacy of the mitigation and offsetting proposed, it is my recommendation that the application be declined under s104(6). I consider that without this information, the adverse effects on significant indigenous

biodiversity should be avoided. A precautionary approach is warranted, given that the protection of significant indigenous vegetation is a matter of national importance (RMA, Section 6(c)).

7. However, should the Panel consider that the information submitted is adequate, I set out in my evidence that the proposed development fails the s104D gateway test. Without adequate biodiversity offsetting or compensation or avoidance of effects, it is considered that the adverse effects on significant indigenous vegetation and heritage will be more than minor. Further, it is considered that the proposed activity will be contrary to the objectives and policies of the Central Otago District Plan in regard to avoiding adverse effects on significant indigenous vegetation and historic heritage values.

8. I set out in my evidence that the permitted baseline may or may not be applied and is at the discretion of the decision-maker. In my opinion, the baseline is not appropriate in this case as the application would be inconsistent with Part 2 of the RMA given that the site is identified as containing significant indigenous vegetation and significant heritage values.

9. It is my view that the Conservation Covenant is a relevant consideration to this application. The land to which the application relates is part of land that was freeholded as part of the tenure review process. The Central Otago District Plan identifies the tenure review process as an alternative statutory means of protecting significant indigenous vegetation.

10. A matter of clarification was identified by the Panel at the hearing yesterday in regard to how 'mapped' and 'unmapped' SNAs are manged. The NPSIB defines a SNA as any area that is notified or included in a district plan provision. The provisions of the NPSIB provides a consistent approach for Councils to identify and map SNAs (Policy 6) and then the NPSIB provisions that apply to SNAs work on the basis that everything of significance identified in a district is mapped. However, many Councils that are undertaking or have completed an exercise to map SNAs recognise that there will still be areas of significance that haven't been captured as SNAs in proposed plans and it's an ongoing process. So, there are different ways that Councils are dealing with this in

proposed plans. Of the proposed plans I have reviewed, one way it has been dealt with is by going a step further and defining an SNA in the proposed plan as both an area that is mapped and scheduled in the plan as well as an area that *meets the significance criteria* in accordance with the NPSIB. All the SNA related objectives, policies and rules therefore apply to unmapped SNAs. Another way it has been dealt with is that a trigger is included in the plan through the indigenous vegetation clearance rules and matters of discretion to capture areas of significance when assessed against the significance criteria. For example, there is a rule that requires resource consent for indigenous vegetation clearance in all other areas (i.e outside of mapped SNAs) and there are matters of discretion that require an assessment against the significance criteria and the extent to which the indigenous vegetation is protected. Councils state their existing obligations under the RMA(s6(c)) to *recognise and protect* areas of significant indigenous biodiversity to justify these additional provisions to capture unmapped SNAs.

11. It is noted that the Central Otago District Plan includes indigenous vegetation clearance provisions that capture both those areas that are scheduled and mapped as significant in the plan AND other areas by having a limit on the amount of clearance permitted and where it takes place in more sensitive areas. The matters of discretion then include a requirement to assess the site against a significance criteria. However, as noted in my evidence, this rule doesn't apply to this site given that it is freeholded tenure review land. This is where there is an inconsistency with the higher order documents as described in my evidence.