

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3b of the
Proposed District Plan

**REBUTTAL EVIDENCE OF EMILY SUZANNE GRACE
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**PLANNING: CHAPTER 46 RURAL VISITOR ZONE – TEXT, VARIATION AND
MAPPING**

12 June 2020

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CONTENTS

	PAGE
1. INTRODUCTION	1
2. SCOPE.....	1
SUBMITTER EVIDENCE ON REZONING REQUESTS	2
3. CAREY VIVIAN FOR HERON INVESTMENTS LIMITED (31014)	2
4. CAREY VIVIAN FOR LOCH LINNHE STATION (31013)	5
5. DUNCAN WHITE FOR GLEN DENE LIMITED AND R&S BURDON (31043).....	8
6. SCOTT FREEMAN FOR MATAKAURI LODGE LIMITED (31033).....	12
SUBMITTER EVIDENCE ON TEXT OF CHAPTER 46	16
7. CAREY VIVIAN FOR LLOYD VEINT (31008).....	16

1. INTRODUCTION

1.1 My full name is Emily Suzanne Grace. My qualifications and experience are set out in my section 42A report dated 18 March 2020 (**s42A**).

1.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person. The Council, as my employer, has agreed for me to give expert evidence on its behalf in accordance with my duties under the Code of Conduct.

2. SCOPE

2.1 My rebuttal evidence is provided in response to the following evidence filed on behalf of various submitters:

RVZ Rezonings

- (a) Carey Vivian for Heron Investments Limited (**31014**);
- (b) Carey Vivian for Loch Linnhe Station (**31013**);
- (c) Duncan White for R & S Burdon and Glen Dene Limited (**31043**);
- (d) Scott Freeman for Matakauri Lodge Limited (**31033**);

Chapter 46 - Text

- (e) Carey Vivian for Lloyd Veint (**31008**).

2.2 I will address the following evidence in a separate statement of evidence due on 19 June 2020:

- (a) Ben Farrell for Malaghans Investment Limited (**31022**);
- (b) Scott Edgar and Dan Curley for Corbridge Estates Partnership Limited (**31021**);
- (c) Brett Giddens for Gibbston Valley Station Limited (**31037**);
- (d) Scott Freeman for Barnhill Corporate Trustee Limited and DE, ME Bunn and LA Green (**31035**);

(e) Kent Frenz for Ministry of Education (**3152**).

SUBMITTER EVIDENCE ON REZONING REQUESTS

3. CAREY VIVIAN FOR HERON INVESTMENTS LIMITED (31014)

- 3.1** Mr Vivian has filed planning evidence on the re-zoning request made by Heron Investments Limited, for the RVZ to be applied to a site at 93 Camp Hill Road, referred to as Maungawera RVZ by Mr Vivian. Mr Vivian proposes specific text changes to the RVZ chapter to support the rezoning request, in addition to those sought in the submission. The site is located in the Rural Zone, Rural Character Landscape (**RCL**), a section 7(c) landscape.
- 3.2** Mr Jones has reviewed the landscape assessment provided by Ms McKenzie and remains opposed to the re-zoning request.¹ Mr Jones considers that the size of the lower landscape sensitivity area identified on the site requires further refinement of areas to be developed, including setbacks from the terrace edge. I agree with this suggestion of further refinement, particularly given the controlled activity status of development within the lower landscape sensitivity area.
- 3.3** While Mr Vivian proposes a building coverage standard, at paragraph 3.8 of his statement, Mr Jones points out that there is no landscape assessment of whether this level of built development within the lower landscape sensitivity area is appropriate. While the site appears to be largely comprised of lower sensitivity landscape, which I consider to be important when considering re-zoning to RVZ,² the area is large. I consider it is difficult to say that the re-zoning proposal is limited in scale and intensity, as intended and expressed in the Purpose statement of the RVZ.
- 3.4** I rely on the evidence of Mr Bond in relation to the level of natural hazard risk at the site. Mr Bond has reviewed the geotechnical statements attached to Mr Vivian's evidence and has amended his assessment of the risk at the site to 'low'. I have reviewed the Active Fault Guidelines

1 See section 3 of Mr Jones' rebuttal evidence.

2 See proposed policy 46.2.1a in my s42A report.

published by Ministry for the Environment and agree that the guidelines suggest there is no need for planning interventions given the 30,000-year recurrence interval of the fault. I have also considered Policy 4.1.8 of the partially operative Otago Regional Policy Statement, which directs a precautionary approach be applied where the natural hazard risk to people and communities is uncertain or unknown, but potentially significant or irreversible. While the location of the fault within the site may be uncertain, the risk is low and I therefore consider there is no need to apply a precautionary approach.

3.5 While I have not changed my opinion that the re-zoning request should be rejected, I have considered the provisions proposed by Mr Vivian in his evidence and make the following comments:

- (a) At paragraphs 3.3 to 3.7, Mr Vivian recommends modifications to the purpose statement, Policy 46.2.17 and Rule 46.4.13 to provide for a single owner's residence at the Maungawera RVZ. At paragraphs 3.14 to 3.15 Mr Vivian also recommends complementary changes to make subdivision in the Maungawera RVZ a non-complying activity (rather than discretionary – which is the activity status in both the Rural Zone and RVZ) to reduce the potential for the proposed relaxed residential rule (for a single owner's dwelling) resulting in a dwelling being subdivided off from the main block.
- (b) It is my understanding that the Heron Investments Limited submission does not provide scope for relaxation of the residential rule - there was no request for relaxation of the provisions relating to residential activity in the submission - and is not consequential to any relief raised in the submission. I do not consider that this relaxation sits on a spectrum between the Rural Zone (current zoning of the site in the PDP) and the slightly modified version of the RVZ sought by Heron Investments through its submission. Under both, residential activity is more restricted than Mr Vivian is requesting in his statement. I understand that the change to NC for subdivision to be proposed as consequential to the relaxation of the residential rule, so I do not consider that further.

- (c) At paragraphs 3.11 to 3.12 of his statement, Mr Vivian proposes a standard to limit the maximum number of overnight visitors to Maungawera RVZ. However, it is not clear what the total number proposed is, as the rule in paragraph 3.11 of Mr Vivian's evidence states 75 overnight visitors, while the text in paragraph 3.12 states 50 overnight guests. I consider such a rule could be a helpful standard to manage the scale and intensity of the visitor accommodation activities within the zone, although I note there is no direct policy support for it within Chapter 46. I also note that no assessment is provided on why a maximum of 50 or 75 overnight visitors is appropriate. I would recommend that a time qualification is added to the standard, should it be included in the chapter, so that the standard applies 'per night', to provide clarity to the rule.
- (d) At paragraph 3.13 of his statement, Mr Vivian proposes a rule to encourage access to the Maungawera RVZ via Camp Hill Road rather than the State Highway. I do not think the rule is necessary, given the controls in place with Chapter 29 (Transport) of the PDP and the requirements of NZTA alluded to by Mr Vivian that operate outside of the PDP. In my opinion, the drafting of the standard would need some work before it was included in the PDP, to ensure it achieves what is intended and to remove what is effectively a double negative, making the standard hard to understand and apply.
- (e) Without providing reasons, Mr Vivian suggests at paragraphs 3.16 to 3.17 that landscape sensitivity mapping should be a structure plan rather than included on the PDP maps. I disagree with this suggestion. The RVZ rule framework relies on landscape sensitivity mapping. The RVZ contains one set of zone-wide rules that apply within the different landscape sensitivity areas. In my opinion, this situation requires the landscape sensitivity areas to be shown on the planning maps, as the planning maps are the tool used to show where particular rules apply. I see no need to complicate the

implementation of the plan by including landscape sensitivity mapping in a different place.

- (f) I also note that including landscape sensitivity mapping as a structure plan may have an unintended consequence of making subdivision within RVZ areas a controlled activity. Rule 27.7.1 of the PDP states that “*subdivision consistent with a Structure Plan that is included in the District Plan*” is a controlled activity. The notified RVZ provisions included a variation to Rule 27.5.11 to make subdivision within the RVZ a discretionary activity. There is no intention for a landscape sensitivity mapping exercise to enable subdivision, and I consider it important that identifying the landscape sensitivity areas does not result in a controlled activity status for subdivision.

- (g) In paragraphs 4.14 to 4.18 Mr Vivian suggests a 150-person limit on commercial recreation activities for the Maungawera RVZ, because the limit of 30 people in the notified RVZ is not economic. In Mr Vivian’s Attachment A, the number provided in the proposed new rule (46.5.6.2) is 200. In addition to my comments in paragraph 10.8 of my s42A, I add it is not clear that the proposed number of people (150 or 200) would satisfy the requirements of Policy 46.2.1.5, which is to ensure that group size does not degrade the level of amenity in the surrounding environment.

4. CAREY VIVIAN FOR LOCH LINNHE STATION (31013)

- 4.1** Mr Vivian has filed planning evidence on the re-zoning request made by Loch Linnhe Station, for the RVZ to be applied over two areas of the site, Wye Creek in the north and Homestead in the south. Mr Vivian proposes specific text changes to the RVZ chapter to support the rezoning request, in addition to those sought in the submission.

- 4.2** I rely on the evidence of Ms Gilbert in relation to landscape matters in my assessment of the appropriateness of the re-zoning request. I note that the changes proposed by Mr Vivian and the landscape assessment

of Mr Espie do not satisfy the concerns raised by Ms Gilbert in her Evidence in Chief dated 18 March 2020. After having reviewed the landscape evidence of Benjamin Espie for the submitter, Ms Gilbert continues to not support the rezoning³. In light of Ms Gilbert's position, my recommendation for the Loch Linnhe rezoning request remains that it should be rejected⁴.

- 4.3** I note that on page 32 of Mr Vivian's statement he states: "*The landscape sensitivity mapping produced by Mr Espie will mean that the bulk of development within the zones will still be required to go through a RD activity consent.*" This is because there is a greater area of moderate-high landscape sensitivity identified across the sites than lower landscape sensitivity. This means the RVZ areas are not "largely comprised of areas of lower landscape sensitivity",⁵ which I consider to be an important factor in considering re-zoning of the sites to RVZ.⁶
- 4.4** Despite my recommendation that the rezoning request be rejected, I have considered the request in Mr Vivian's evidence for changes to the purpose statement, Policy 46.2.17 and Rule 46.4.13 to provide for a single owner's residence at the Loch Linnhe Wye Creek RVZ (paragraphs 3.2 to 3.6 of Mr Vivian's statement). At paragraphs 3.15 to 3.16 Mr Vivian recommends complementary changes to make subdivision in the Loch Linnhe Wye Creek RVZ a non-complying activity to reduce the potential for the relaxed residential rule resulting in a dwelling being subdivided off from the main block.
- 4.5** While I maintain my opinion expressed in Section 6 of my s42A relating to residential activity in the RVZ generally, I now consider that a specific exception for one residential unit within the Loch Linnhe Wye Creek RVZ may be appropriate, should the site be re-zoned. The Wye Creek site is a relatively small area and there is not sufficient room for an extensive rural visitor development. I consider it is reasonable to expect that rural visitor activities on the site may be run by a person or people living in a homestead on the site. The Station owners' desire to build a homestead on the site is recorded in Section 2 of Mr Vivian's statement. However,

3 See section 4 of Ms Gilbert's rebuttal evidence.

4 See paragraphs 12.14 to 12.17 of my s42A report.

5 See proposed new policy 46.2.1.a in the version of Chapter 46 attached to my s42A report.

6 See paragraph 4.22 of my s42A report.

the intent of the RVZ is to specifically provide for visitor industry activities over other activities, and any development of a residential unit within the Wye Creek site would need careful consideration to ensure the ability to undertake visitor accommodation activities was not compromised.

4.6 As such, I consider that a very specific and targeted policy would be required for the Wye Creek site, and that discretionary activity status would be the most appropriate, to allow for full consideration of all potential effects and policy implications of any proposal. I note that discretionary activity status for a new residential unit matches the activity status that would apply to the same activity under the current Rural Zone that applies to the site.

4.7 I do not support the provisions proposed by Mr Vivian in paragraphs 3.2 to 36. Rather, if the Wye Creek site were to be re-zoned, I consider that a specific policy along the following lines would be more appropriate:

To provide for consideration of one residential unit, of a nature similar to a farm homestead, within the Loch Linnhe Wye Creek RVZ, where the bulk and location of the residential unit does not compromise the ability of the site to provide for rural visitor activities, and it can be demonstrated that the use of the residential unit is integral to the operation of rural visitor activities on the site.

4.8 I would also recommend a new discretionary activity rule for “one residential unit within the Loch Linnhe Wye Creek RVZ” be added to the rule table, with the new rule included as an exception to Rule 46.4.13 (non-complying rule for residential activity). I do not oppose Mr Vivian’s suggestion of non-complying activity status for subdivision at the Wye Creek site.

4.9 If the Panel were to come to an alternative view to me on the re-zoning request, I have undertaken a high-level assessment of the new provisions proposed by Mr Vivian and make the following comments on them:

(a) At paragraphs 3.7 to 3.9, Mr Vivian proposes a new non-complying rule for informal airports at the Wye Creek RVZ in response to concerns raised by a submitter. I see no problem

with including the proposed rule, should the new RVZ be included in the PDP, but note that there is a typographical error in the change Mr Vivian proposes to Rule 46.4.5 – the words ‘except at’ are missing. The rule should read ‘*Informal airports, except at Loch Linnhe Station (Wye Creek) Rural Visitor Zone*’.

- (b) At paragraphs 3.10 to 3.11, Mr Vivian proposed new building coverage standards for the two Loch Linnhe RVZs. I note that Ms Gilbert is not satisfied that these standards are appropriate from a landscape point of view, and I consider coverage standards are an important method to manage landscape effects within the RVZ⁷.
- (c) At paragraphs 3.13 to 3.14, Mr Vivian proposes a standard to limit the maximum number of overnight visitors at each of the proposed RVZ sites. This is a parallel of the standard Mr Vivian proposes for the Maungawera RVZ, which I discuss in Section 4 of my rebuttal. My comments on this are the same as for the Maungawera RVZ.
- (d) Without providing reasons, Mr Vivian suggests at paragraphs 3.17 to 3.19 of his statement that landscape sensitivity mapping should be a structure plan rather than included on the District Plan maps. I disagree with this suggestion, and have provided my reasons in Section 4 of this rebuttal statement.

5. DUNCAN WHITE FOR GLEN DENE LIMITED AND R&S BURDON (31043)

- 5.1** Mr White has filed planning evidence on the re-zoning request to apply the RVZ to the Lake Hawea Holiday Park and surrounding land. Mr White proposes specific text changes to the RVZ chapter to support the rezoning request, in addition to those sought in the submission.
- 5.2** At paragraphs 7.2 to 7.4 of his statement Mr White discusses ‘remoteness’ and the change he proposes to remove reference to remoteness from the new policy (46.2.1.a) I proposed in my s42A report.⁸ I do not disagree with Mr White’s arguments about the relative

7 See Section 5 of my s42A report.

8 See paragraph 4.22 of my s42A report for my explanation of this proposed policy.

importance of remoteness as a characteristic of the RVZ, and this is why I included the word 'generally' with 'remote' in the policy. I do not agree with Mr White that remote should be removed from the policy. In the case of the Lake Hawea Holiday Park, while I stated in my s42A report⁹ that I considered the site was not particularly remote, I also noted that it does provide access to an ONL, being Lake Hawea and surrounds. To be clear, if remoteness was the only issue outstanding for the re-zoning of the Lake Hawea Holiday Park to RVZ, I would support the re-zoning. The 'generally remote' reference in the policy is linked to access to the District's landscapes, and I have already stated that would be provided by the Lake Hawea Holiday Park.

- 5.3** At paragraph 7.6 Mr White proposes a 7% maximum building footprint for the Lake Hawea RVZ to replace the default 500m² I proposed in my s42A. Ms Gilbert has assessed the landscape implications of this site coverage standard in her rebuttal evidence. She notes that it would allow up to 31 buildings of 500m² in area throughout the site, threatening the existing tree cover. It is one of the reasons Ms Gilbert does not support the re-zoning request. Based on Ms Gilbert's advice, I do not support the 7% maximum building footprint proposed by Mr White.
- 5.4** At paragraphs 7.8 and 7.9 of his statement, Mr White proposes a new permitted activity rule for restaurants, cafes and retail that are accessory to a permitted activity. I disagree with this evidence. I do not think such a rule is necessary, because as Mr White points out, the definition of Visitor Accommodation provides for these activities, so they are already afforded permitted status by Rule 46.4.2. In my opinion, a small camp shop would be covered by the definition as such an operation would clearly be associated with visitor accommodation and be providing a service to overnight guests.
- 5.5** Ms Gilbert is in agreement with an exception to the building materials and colours standard (46.5.x) for recreational camping or glamping tents, as proposed by Mr White at paragraph 7.10 of his statement. I agree that such an exception would be appropriate, should the site be re-zoned, and concur with Mr White's proposed wording.

9 See paragraph 12.1 on page 50 of my s42A report (please note there are two paragraphs 12.1 in my s42A report).

5.6 Mr White addresses landscape issues in paragraphs 7.11 to 7.16 of his statement, outlining a number of provisions to manage effects on landscape, including a 20m wide buffer along the state highway boundary and accompanying vegetation management plan, and the building coverage limit discussed above. Ms Gilbert has reviewed the evidence of Mr Espie and Mr White and maintains her opposition to the re-zoning request. She considers there will be adverse landscape and visual effects on the ONL and that the re-zoning would not protect landscape values.¹⁰ At paragraph 4.27 of her rebuttal evidence, Ms Gilbert outlines the characteristics she considers could shape an appropriate site-specific RVZ at Lake Hawea Holiday Park. In light of Ms Gilbert's advice, I have not changed my opinion that the re-zoning request should be rejected. I note that Ms Gilbert indicates in paragraphs 4.24 to 4.27 that she considers RVZ zoning may be appropriate over most of the site, subject to further landscape work, but is clear that this does not extend to the isolated block to the north of the currently developed camp ground (Lot 1 DP 418972).

5.7 If the Panel were to come to an alternative view to me on the re-zoning request, I have undertaken a high-level assessment of the other changes proposed by Mr White at paragraph 4.2 of his statement that are not already addressed above, and make the following comments on them:

- (a) I do not agree with the proposal to remove 'difficult to see' from Policy 46.2.1. My reasons for including this are set out in paragraph 4.22 of my s42A.
- (b) I do not agree with the approach proposed to incorporate the vegetation management plan for the 20m wide buffer into the RVZ. Mr White proposes a new policy (46.2.1.x) to identify the outcomes sought for the 20m wide vegetation management strip, a standard that requires the plan to be prepared with the 'first' resource consent and for all subsequent resource consents to be consistent with that plan, and a matter of control for related to consistency with the plan. I have a number of issues with this framework:

10 See paragraph 4.19 of Ms Gilbert's rebuttal evidence.

- (i) The outcome for the plan is already set by the strategic objectives directly relevant to the ONL location, which seek to protect landscape values of ONLs.
- (ii) A policy related to the management plan should explain how it is to be achieved with the specific method of a plan. I would expect such a policy to use phrasing along the lines of “protect the landscape values of the Lake Hawea RVZ through compliance with a landscape management plan that ...” and then set out the specific landscape methods (such as filtering views from the highway, as suggested by Ms Gilbert in her rebuttal evidence). Given the proposal is for non-compliance with the landscape plan to trigger non-complying activity status, I would suggest the use of strong and directive wording in the policy, so clear guidance is provided to consent planners when assessing non-complying activities.
- (iii) I am not convinced that having the plan associated with a particular consent, I presume through conditions of that consent, allows it to be a legitimate standard in a district plan chapter – to know if a proposed activity was controlled, a person would have to find the previous consent that included the landscape land and then determine if the new activity complied with it or not. An activity status should be able to be determined from the face of a plan. I can understand the intention of Mr White, but I do not agree that the proposed method within the plan is appropriate. Rather, I consider that the suggestion of Ms Gilbert in her rebuttal statement to prepare a location-specific structure plan that details which activities are to happen where, including landscape management activities, may be a more appropriate approach.

- (c) Following on from my comments above, I do not agree with the inclusion of a specific structure plan to manage building heights. My preference would be for height limits to be incorporated directly into the standards table, or through a more comprehensive structure plan for the site, as discussed above. I note that Ms Gilbert does not support the two height limits proposed for the site, and suggests a site-wide limit of 5m for the site in her rebuttal statement¹¹.
- (d) I do not agree with the changes proposed by Mr White¹² to add reference to 'infrastructure' to Policy 46.2.1.4 and Objective 46.2.2. There is limited discussion of this in Mr White's statement and I am not clear on the need for it, or what particular infrastructure might be the focus of the proposed change. 'Infrastructure' is a term defined in the RMA and applies to a wide range of activities, and as a result adding the term to the policy and objective could have unintended consequences. I note that Policy 46.2.2.6 addresses servicing, including wastewater and water, and that servicing is a matter of control for buildings in Rule 46.4.6. In my opinion, these provisions relating to servicing are appropriate and I see no need to extend them.

6. SCOTT FREEMAN FOR MATAKAURI LODGE LIMITED (31033)

- 6.1** Mr Freeman has filed planning evidence on the re-zoning request for RVZ to be applied to the Matakauri Lodge Limited site. Mr Freeman proposes specific text changes to the RVZ chapter to support the rezoning request, in addition to those sought in the submission.
- 6.2** I rely on the evidence of Mr Jones in relation to landscape matters in my assessment of the appropriateness of the re-zoning request. Mr Jones has reviewed Ms Lucas' evidence and has advised that he no longer opposes the re-zoning on landscape grounds¹³. Landscape sensitivity mapping has been undertaken by the submitter to a level of detail appropriate for including in the PDP maps, meaning that the rule

11 See paragraph 4.27 of Ms Gilbert's rebuttal evidence.

12 Paragraph 4.2 of Mr White's evidence in chief, bullet point 3, and changes in annotated Chapter 46 in Appendix C of the evidence.

13 See section 5 of Mr Jones' rebuttal evidence.

framework for managing landscape values can be appropriately applied to the site. If the site is re-zoned, I recommend that the landscape sensitivity mapping set out in Ms Lucas' evidence is carried through to the PDP maps.

6.3 Mr Jones' position is subject to the inclusion of the following three standards for the Matakauri site:

- (a) a 2000m² maximum building coverage standard (rather than the 2,500m² standard proposed by Ms Lucas and Mr Freeman);
- (b) a 10m building separation standard (in agreement with Ms Lucas and Mr Freeman); and
- (c) a requirement for native plantings within the 10m separation between buildings.

6.4 If the site is re-zoned, I recommend that standards that address these three matters are included in Chapter 46. I make comments on the standards put forward by Mr Freeman in Appendix B of his evidence to address these matters in the following paragraphs.

6.5 Mr Freeman proposes a new standard 46.5.2.2 for a total maximum ground floor area of 2500m², specific to the Matakauri Lodge site:

- (a) I generally agree with the proposed location of this standard in the table and its wording, subject to the replacement of '2500m²' with '2000m²'.
- (b) I would recommend that rather than the address of the site, the name of the RVZ is used, being the 'Matakauri RVZ'. This is the convention within the chapter in relation to the Walter Peak RVZ.
- (c) I do not think that the note Mr Freeman adds to proposed Rule 46.5.2.1, to exclude the Matakauri RVZ from the generic 500m² standard, is necessary. The 500m² standard is drafted in such a way that it applies specifically to the RVZ identified within it. As such, I consider there would be no confusion over which standard applied to which RVZ, and therefore no need for exclusions.

6.6 Mr Freeman proposes a new standard 46.5.XX for a 10m building separation, specific to the Matakauri Lodge site.

- (a) As above, I generally agree with the proposed location of this standard in the table and its wording, and I would recommend 'Matakauri RVZ' is used rather than the address of the site.
- (b) I agree with the non-compliance status being restricted discretionary, as this matches with other similar non-compliances in the standards table.
- (c) I agree with the matters of discretion identified.

6.7 I consider that one option for incorporating the native planting standard recommended by Mr Jones would be to amend the new building separation standard 46.5.XX proposed by Mr Freeman. A second limb could be added to the standard, requiring 'a native planting plan detailing species type, numbers, location, planting schedule and maintenance for the separation space required by this standard, for the purpose of mitigating the visual effects of the proposed building(s) and to integrate the building(s) into the surrounding environment', or similar. I consider this is a workable standard to achieve the outcome sought by Mr Jones. I acknowledge that there may be other means of incorporating this requirement into the chapter.

6.8 Mr Freeman discusses, at paragraphs 102 to 107 of his statement, the transport evidence of Mr Bartlett. Mr Freeman sets out the physical works recommended by Mr Bartlett to improve the safety and efficiency of Farrycroft Row and the intersection with Glenorchy-Queenstown Road. At paragraph 137 of his statement, in relation to Policy 46.2.2.6 of Chapter 46, Mr Freeman states that any future development can be adequately dealt with from an infrastructural perspective. Policy 46.2.2.6(d) is to "ensure development can be appropriately serviced through provision of safe vehicle access ... and associated infrastructure". I am not convinced that Mr Freeman is correct in this regard, based on the advice of Mr Smith, who has reviewed Mr Bartlett's statement. Mr Smith has concerns about the safety of the access to the Matakauri site, and the practicalities of the upgrades necessary to

improve safety.¹⁴ If the access is already causing traffic safety issues, and the upgrades to improve safety are not practical, then in my opinion, assessment of traffic matters at resource consent stage, particularly via a controlled activity consent, is not appropriate, and RVZ zoning is not appropriate for the site.

6.9 I agree with Mr Freeman¹⁵ that adding the Transport Chapter to provision 46.3.1 (a list of District Wide chapters that attention is drawn to) is necessary. Similarly, I agree that the changes to the matter of control in Rule 46.4.6(f), so that it reads “design and layout of site access, on-site parking, manoeuvring and traffic generation” is appropriate¹⁶. I recommend that these changes be made, even if the re-zoning request for the Matakauri site is not approved, as they will improve the management of traffic-related effects from developments on RVZ sites.

6.10 I agree with the arguments that Mr Freeman makes at paragraph 84 of his statement in relation to the amendment I recommended to the non-notification statement in Section 46.6.¹⁷ Mr Freeman has pointed out an unintended consequence of the amendment I proposed, in that it will apply to a wider range of activities than intended. The amendment was made in response to the submission of Aurora Energy Limited (**31020**), and my recommendation was to include it in the plan only in the situation that any of the four re-zoning sites adjacent to Electricity Sub-Transmission Infrastructure or Significant Electricity Distribution Infrastructure be re-zoned to RVZ (the Matakauri site is not one of these). Paragraphs 40 to 42 of the Evidence in Chief of Joanne Dowd for Aurora Energy Limited provide the explanation for the changes to the notification rules.

6.11 In response to Mr Freeman’s concerns, I recommend that for each of the Aurora-specific changes I recommended in my s42A, the specific RVZ site that it relates to is incorporated into the provision.¹⁸ For example, the exceptions to the non-notification statement that Mr Freeman highlights would have the words “*For the x and y RVZ only*” added to the

14 See section 8 of Mr Smith’s rebuttal statement.
15 Paragraph 157 of Mr Freeman’s Evidence in Chief.
16 Paragraph 158 of Mr Freeman’s Evidence in Chief.
17 See paragraphs 16.10 to 16.12 of my s42A report.
18 Provisions 46.3.3.X, 46.4.6x, 46.4.7x, 46.6.

beginning of the clause. I note that the Aurora-specific amendments will not be necessary if none of the relevant sites are re-zoned.

SUBMITTER EVIDENCE ON TEXT OF CHAPTER 46

7. CAREY VIVIAN FOR LLOYD VEINT (31008)

- 7.1** Mr Vivian has filed planning evidence on the RVZ provisions as they relate to the Arcadia RVZ. In summary, the primary relief sought is to incorporate past resource consent approvals, including a structure plan for the Arcadia into the RVZ. My rebuttal relates to that part of Mr Vivian's evidence that proposes changes to the structure plan and new provisions to incorporate the structure plan into the PDP.
- 7.2** The premise of Mr Vivian's planning evidence appears to be that historic resource consent processes demonstrate that the effects on landscape of the structure plan and the activities it provides for are no more than minor, and so there is no impediment to incorporating the structure plan and design guidelines within the RVZ.¹⁹ In my opinion, this is not a helpful focus for the assessment of the structure plan and the provisions proposed by Mr Vivian to incorporate the structure plan into the RVZ. The regional and district planning framework has been updated since those historic assessments were undertaken. The rezoning principles described at paragraph 8.7 of Mr Barr's Strategic Evidence²⁰ state that *"zoning is not determined by existing resource consents and existing use rights, but these will be taken into account"*. I consider that the structure plan and provisions proposed to incorporate it into the RVZ chapter should be considered on their merits in the current planning context.
- 7.3** I rely on Ms Mellsop's evidence on landscape matters in forming my opinion on the structure plan and provisions proposed by Mr Vivian. Ms Mellsop has considered the revisions to the Arcadia structure plan set out in Mr Vivian's evidence, as well as the provisions proposed to incorporate it into the PDP. Ms Mellsop's position remains the same as expressed in her Evidence in Chief, *"that development enabled by the structure plan and proposed bespoke plan provisions would exceed the*

¹⁹ See for example paragraph 2.42 of Mr Vivian's evidence in chief.
²⁰ Dated 18 March 2020.

*capacity of the area to absorb development without compromising its landscape values”.*²¹

7.4 In light of Ms Mellsop’s evidence, and the current planning framework for managing landscape values set out in Chapter 3 of the PDP, my opinion remains as expressed at paragraph 6.15 of my s42A. That is, that the structure plan framework proposed by Mr Vivian will not protect the values of the ONL in which the Arcadia RVZ sits and including it within the PDP would be contrary to Chapter 3 and the objectives of the RVZ. This would be my opinion if the structure plan was incorporated into the PDP as part of the RVZ or as an alternative zone.

7.5 If the Panel were to come to an alternative view to my opinion on the inclusion of the structure plan within the PDP, I have undertaken a high-level assessment of the new provisions proposed by Mr Vivian and make the following comments on them:

- (a) I consider that the change to the purpose statement set out at paragraph 3.2 of Mr Vivian’s evidence is not necessary. A district plan can only ever govern future activities, and I do not consider it necessary to clarify in the purpose statement that the provisions of the RVZ chapter only apply to future development.
- (b) I consider that an explanatory paragraph for the Arcadia structure plan, similar to that suggested by Mr Vivian at paragraph 3.3 of his statement, would be appropriate in the purpose statement, should the structure plan be incorporated into the PDP.
- (c) I also agree that a change to Policy 46.2.17, as suggested by Mr Vivian at paragraph 3.4 of his statement, would be appropriate, should the structure plan be incorporated into the PDP.
- (d) I do not agree that a new objective is needed in the RVZ chapter to ‘adopt a structure plan’, as set out at paragraph 3.6 of Mr Vivian’s evidence. In my opinion, a structure plan is a method used to achieve the objectives of the RVZ, rather than

21 Paragraph 3.4 of Ms Mellsop’s rebuttal evidence.

an outcome in itself. A policy to 'adopt a structure plan' would be more appropriate, in my opinion.

- (e) In principle, I consider that it is appropriate to include a suite of policies specific to a structure plan, such as those recommended by Mr Vivian at paragraph 3.6 of his statement, within the PDP to specify how the objectives are to be achieved through the implementation of the structure plan.
- (f) I consider there is a degree of repetition within the policies proposed at paragraph 3.6 of Mr Vivian's statement that could be reduced to improve plan usability. For example, there is little difference between proposed policies 46.2.3.1 and 46.2.3.2, and I suggest they could be combined. Another example is that 'avoid an urban response' is a key theme in the policies and could be a policy on its own rather than being repeated within individual activity area policies.
- (g) I agree with Ms Mellsop²² that there is a lack of connection between the policies and the rules, so that it is not clear that the proposed rules will implement the policies. In addition to the examples Ms Mellsop provides, an example is proposed policy 46.2.3.8, to "*provide for the establishment of structures for the purpose of storage of recreational craft, such as kayaks, and for communal facilities*". I can see no specific rules that achieve this. I am also not clear on how the policy direction in the proposed policies to 'avoid an urban response' is implemented by the rules.
- (h) Ms Mellsop, at paragraph 3.5 of her rebuttal statement, sets out her reasons why the rules proposed by Mr Vivian are not adequate to protect landscape values. Based on Ms Mellsop's opinion, I consider that the rules proposed by Mr Vivian are not an appropriate way to achieve the objectives of the RVZ.
- (i) Section 6 of my s42A sets out my reasons for considering non-complying activity status for residential activity appropriate for the RVZ. In my opinion, the change to Rule 46.4.13 proposed by Mr Vivian at paragraph 3.11 of his statement would exempt residential dwellings from being a non-complying activity under that rule. However, there is no

22 Paragraph 3.5(a) of Ms Mellsop's rebuttal evidence.

corresponding rule proposed that sets out what activity status the exempted dwellings would have. Without that corresponding rule, these dwellings would still be a non-complying activity as the default in the RVZ chapter for 'any other activity' is non-complying activity status under rule 46.4.16.

- (j) Generally, I consider that the structure of the changes to the rules proposed by Mr Vivian at paragraphs 3.8, 3.11, 3.13, 3.15, 3.17, 3.20, 3.22, are 3.23 are workable.
- (k) There is an exception within proposed height standard 46.5.1.3(e) that I do not think is clear and suggest the wording/structure could be improved.
- (l) I consider that it would be beneficial if the new standard 46.5.8A for building material and colours proposed by Mr Vivian at paragraph 3.21 of his evidence could be made more certain. As a standard, I consider 'colours shall reflect the historic homestead qualities of this area' is not certain enough and is open to interpretation. In my opinion, a specific colour range should be included in the standard, in a similar way to Rule 46.5.8, to ease plan implementation.
- (m) Mr Vivian proposes a roading standard at paragraph 3.23 of his statement. I disagree with the inclusion of this standard in the RVZ chapter. I understand the Council has a Code of Practice for subdivision and development that governs the formation and management of roading in the District. This Code, and the Transport Chapter of the PDP (Chapter 29) are the most appropriate way to manage the effects of roading and access. I note that the policies in the RVZ chapter relating to landscape management apply to access as much as to other activities, and Policy 46.2.2.6 addresses traffic safety. In addition, I do not think the proposed standard is certain enough for a standard and assessing compliance with it would be difficult. It also uses some outstated terminology, for example the use of the term 'carriageway' has been replaced by the use of the term 'movement lanes'.
- (n) I do not agree with the structure and formatting of Rule 46.5.13 proposed by Mr Vivian at paragraph 3.25 of his statement. The rule is largely an activity rule, and so should

be located in the activity table, rather than the standards table. In addition, the exception framework for the roading sub-clause (d) does not work, in my opinion, as there is no corresponding rule that says what activity status the exceptions have. In the absence of a corresponding rule, the exceptions would be non-complying under the 'any other activity' rule (46.4.16). The roading sub-clause also appears to be a mix of activities and standards, which further detracts from its workability.

A handwritten signature in black ink, appearing to read 'Emily Grace', written in a cursive style.

Emily Grace
12 June 2020