

Before the Hearings Panel

For the Proposed Queenstown Lakes District Plan

Under the Resource Management Act 1991

In the matter of of a variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan, to introduce Priority Area Landscape Schedules 21.22 and 21.23

Evidence of Chris Ferguson

11 September 2023

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**anderson
lloyd.**

Qualifications and experience

- 1 My name is Christopher (Chris) Bruce Ferguson. I hold the qualifications of a Bachelor of Resource and Environmental Planning (Honours) from Massey University. I hold the position of Partner with the environmental consultancy firm Boffa Miskell Limited (Boffa Miskell), based in the Queenstown office. I have been employed by Boffa Miskell since April 2015, and from 2022 am a director of the company. I reside in Arrowtown and have been practicing as a planner in the Queenstown Lakes District since 2000, with some short periods overseas and in Christchurch (refer below).
- 2 I have 25 years' experience as a resource management practitioner and am a full member of the New Zealand Planning Institute. I have held positions as a Planner in both local government and private practice within Selwyn District Council, Christchurch City Council, and Queenstown Lakes District Council, as well as in London, England.
- 3 Prior to commencing employment at Boffa Miskell, I was employed by AECOM New Zealand Limited as a Principal Planner, based in Christchurch. My work experience in Queenstown has included employment with Civic Corporation Ltd from Feb 2000 to Nov 2001, planning manager at Clark Fortune McDonald & Associates Ltd from 2003 to 2010 and then as Director of planning consultancy company Ferguson Planning Ltd. My work in Christchurch involved a secondment position with the Canterbury Earthquake Recovery Authority (CERA) providing planning support on several anchor projects as well as submissions for private clients on the proposed Replacement Christchurch District Plan.
- 4 I have been involved throughout the Environment Court process and hearings relating to the District Plan Review for a range of Darby Planning LP entities, providing planning advice, evidence, and court-directed expert witness conferencing. Of particular relevance to the development of the landscape schedules and the clients who I represent at this hearing, my involvement includes:
 - (a) Topic 1 (Strategic Directions), where I was involved in the preparation of evidence and presentation of evidence at the Environment Court and participated in Environment Court directed conferencing to development provisions relating to the role of the Strategic Objectives and Strategic Policies, Interpretation, and the appropriateness for 'carve-outs' to the ONF/L provisions leading to the Exception Zone Framework.

- (b) Topic 2 (Rural Landscapes), where I prepared evidence in support of an appeal by Darby Planning LP. During this process I also prepared rebuttal and supplementary statements, I participated in Court directed conferencing leading to the formulation of a Joint Witness Statement and presented these at the Court hearing.

I participated in and am a signatory to the JWS dated 29 October 2020, formulated in response to the directions from the Environment Court regarding the development of the Values Identification Framework (**VIF**) for the identified Priority Areas (**PAs**), the extent of the PAs and the landscape assessment methodology.

- (c) Topic 18 (Rural Zone), where I prepared evidence, attended Environment Court facilitated mediation and participated in the workshopped Environment Court hearing that resolved the Chapter 21 Rural Zone assessment matters (as they support the strategic policies relating to the management of landscape values in the Rural Zone).
- (d) Topic 19 (Ski Area Sub-Zones), where prepared evidence, attended Environment Court facilitated mediation and participated in the workshopped Environment Court hearing resolving the provisions relating to the SASZs, including the new provisions created in relation to passenger lift systems, terminals and associated station buildings.
- (e) Topic 22 (Jacks Point Zone), where I have prepared evidence, attended Environment Court facilitated mediation and participated in multiple Environment Court hearings relating to the development of this zone.

- 5 Throughout the course of this and other project work, I am very familiar with and have visited the sites owned by each of my client entities.

Code of Conduct for Expert Witnesses

- 6 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence has been prepared in accordance with that Code and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of evidence

- 7 I have been asked to prepare planning evidence for the following submitters to the Landscape Schedules Variation to the PDP (the Variation):
 - (a) Henley Downs Farm Holdings Ltd (**Jacks Point**)
 - (b) Glendhu Bay Trustees Ltd (**GBTL**)
 - (c) Soho Ski Area Ltd & Blackmans Creek Holdings No. 1 LP (**Soho**)
 - (d) Glencoe Station Ltd (**Glencoe**)

- 8 The relationship of each submitter to the Landscape Schedules is identified below.
 - (a) Whakatipu Area: 21.22.1 PA ONF Peninsula Hill (relating to submitter Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited).
 - (b) Whakatipu Area: 21.22.16 ONL Eastern Whakatipu Basin (relating to submitter Glencoe Station Limited and Glencoe Land Development Company Limited).
 - (c) Whakatipu Area: 21.22.18 PA ONL Cardrona Valley (relating to submitter Soho Ski Area Limited and Blackmans Creek Holdings No. 1 LP); and
 - (d) Upper Clutha Area: 21.22.21 PA ONL West Wānaka (relating to submitter Glendhu Bay Trustees Limited).

- 9 In preparing this evidence I have reviewed the following reports and statements:
 - (a) Statement of Evidence (Planning) prepared by Ruth Evans on behalf of the Queenstown Lakes District Council (QLDC), dated 11 August 2023.
 - (b) Statement of Evidence (Landscape) prepared by Bridget Gilbert on behalf of QLDC, dated 11 August 2023.
 - (c) Statement of Evidence (Landscape) prepared by Jeremy Head on behalf of QLDC, dated 11 August 2023.
 - (d) The Section 32 Report, related schedules and mapping notified as part of the Variation.

- 10 My evidence is structured as follows:
 - (a) Background to submitter land interests
 - (b) Exception Zone Framework
 - (c) Implementation of the Landscape Schedules
 - (d) Recommended Changes

Background to submitter land interests

Jacks Point

- 11 The provisions of the Jacks Point Zone in the PDP are now largely operative through the issue of consent orders and decisions from the Court resolving appeals. As noted within the evidence of Ms Evans, there is one remaining unresolved appeal in relating to the Peninsula Hill land that has been placed on hold pending the outcome of the scheduling process.
- 12 The Jacks Point Zone has also been identified as an Exception Zone within provisions 3.1B.5, Chapter 3 of the PDP.
- 13 A part of the Jacks Point Zone is located within an Outstanding Natural Feature that includes the landform of Peninsula Hill, the ridgeline above the eastern shore of Lake Wakatipu and the landform of Jacks Pont towards the southern part of the zone.
- 14 The evidence of Mr Bentley identifies the spatial relationship between the Peninsula Hill ONF PA and the Jacks Point Zone. The main features of the Jacks Point Zone Structure Plan that fall inside the Peninsula Hill ONF PA include land located within the Open Space Landscape (OSL) Activity Area, which includes the Peninsula Hill Landscape Protection Area and the Lake Shore Protection Area. Within the ONF, the structure plan also identifies two Homesite (HS) Activity Areas HS₃₆ and HS₅₈, together with an indicative vehicle access alignment.
- 15 Within HS₅₈ the construction of one residential unit is provided for as a restricted discretionary activity. Councils' discretion is restricted to:
 - (a) *The external appearance of buildings with respect to the effect on visual and landscape values of the area;*
 - (b) *Infrastructure and servicing, including firefighting water supply; Associated earthworks and landscaping;*

- (c) *The visual effects of building and associated lighting and access, including in views from within the Tablelands, residential areas and walkways areas of the Jacks Point Zone;*
 - (d) *Any mitigation and its impact on the character of the landscape;*
 - (e) *Consistency with the Structure Plan for the alignment of vehicle access to the Homesites;*
 - (f) *Light spill beyond the Homesite Activity Area;*
 - (g) *Enhancing nature conservation values, including where appropriate extending into the surrounding OSL Activity Area.*
- 16 HS₅₈ is undeveloped. HS₃₆ is located close to the ONF boundary and was carried over from the ODP as a legacy part of the former Jacks Point Special Zone. This Homesite has been fully developed.

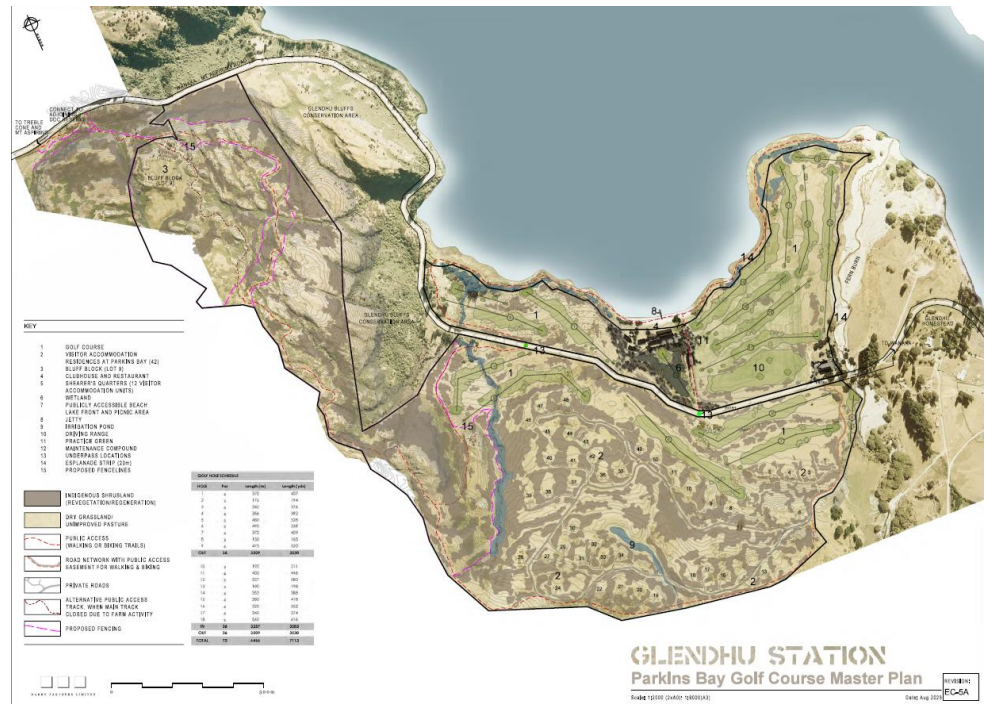
Glendhu Bay

- 17 In May 2012 the Environment Court confirmed the grant of an application for resource consent (RM070044) to Parkins Bay Preserve Limited for the construction, provision, and use of an 18 hole championship golf course, together with a series of lakeside buildings (including a club house with restaurant and café, a jetty and visitor accommodation units), 42 residences / visitor accommodation units, ecological enhancement, and enhanced public access, upon a set of terms and conditions set out in the decision and in accordance with the plans and maps attached to that decision. Extensive work has been undertaken by the consent holder in order to give effect to this consent, and the consent was recently granted an extension of time¹ until 2 May 2027. The approved Masterplan is shown below.
- 18 The decision of the Commissioners appointed to determine the original land use consent for the Council declined consent for 8 of the 50 homesites.² Although this outcome was not appealed by the applicant / consent holder, the applicant was happy to accept consent for 42 homesites but wanted the opportunity to apply for up to 8 additional units in the future, if it can be established that any potential adverse visibility / domestication effects would be sufficiently mitigated. Provision was made within the consent notice conditions for further development (now registered) for the developer

¹ ET070044, dated 23 December 2021

² Paragraph 135, Page 33, Decision of Commissioner Clarke and Paragraph 108 'Determination', RM070044 (1 May 2008)

to seek consent for the 8 additional units by way of either further resource consent or a variation to RM070044.



- 19 Subdivision consent RM181185 was obtained by Glendhu Bay Trustees Limited in August 2020 to create 42 individual titles for each of the homesites approved through land use consent RM070044. This subdivision also creates the associated balance lots (providing for both open space areas and the future golf course development) and private access lots.
- 20 Both RM070044 and RM181185 have been varied a number of times to alter the golf course layout, alter the RL levels of three homesites, alter building platforms and to amend the staging requirements.

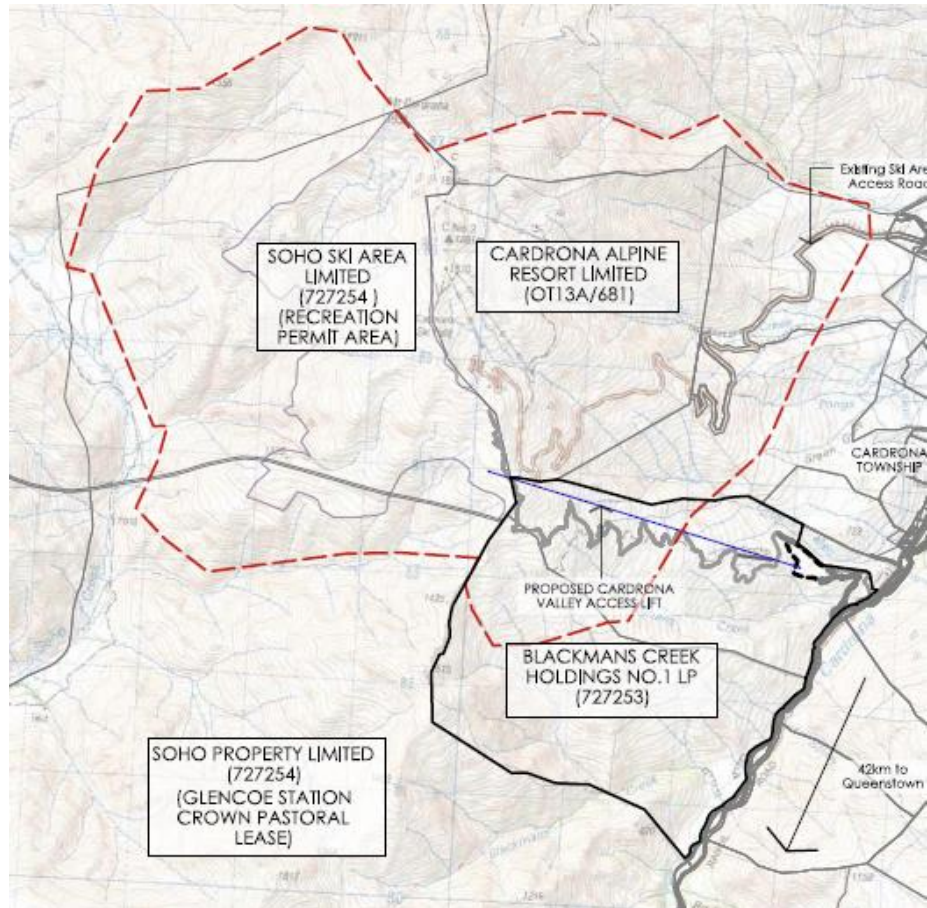
Progress with Implementation of the consents

- 21 A summary of this progress being made to implement this land use consent, includes the following works:
 - (a) the initial subdivision of Glendhu Station into the main development titles, necessary to facilitate the approved land use consent, the creation of the open space covenants (through the registration of covenants and consent notices) and the creation of each of the public access easements.
 - (b) The establishment of public access from Wanaka – Mount Aspiring Road to the foreshore at Parkins Bay.

- (c) Further preliminary consents to amend conditions of consent for RM070044 to adjust aspects of the staging of the land use consent, the layout of the golf course and to the layout and design of various homesites.
 - (d) Development of a Revegetation Strategy, a Site/Earthworks Plan and a Traffic Management Plan, each of which were certified by the District Council in September / October 2016.
 - (e) Consents issued by the Otago Regional Council in relation to water takes, wastewater discharges and disturbance of the bed of Lake Wanaka in association with a water intake. Together with necessary approvals from the Department of Conservation and the Crown Commissioner of Land.
 - (f) The implementation of the earthworks plans in relation to the creation of most of the homesites, related vehicle access road and the earthworks forming part of the landscape mitigation.
 - (g) The work undertaken to date relating to the Revegetation Strategy has resulted in extensive planting, including shrubland and wetland species along the western gully, with approximately 22,150 plants planted, and as part of the revegetation required at each homesite. Approximately 99,000 plants have been planted to date. Associated with this work has been the establishment of irrigation and animal pest control.
 - (h) Design work on the trails has been complete and substantial progress has been made in the construction of the Lakeshore, Western Gully, Glendhu Hill, Mountain Residences and Fern Burn Trails.
 - (i) The consent holder has appointed an its representative under NZS4404 and obtained Engineering Acceptance in relation to the engineering works required as part of the subdivision. The construction work that has been undertaken in accordance with the EA includes the formation of the primary roads, and civil works associated with the water supply tanks.
 - (j) Works associated with the construction of the golf course, including installation of silt fencing and environmental protection measures, and bulk earthworks for the construction of an irrigation reservoir.
- 22 GBTL is on programme to apply for s223 from Council in mid-2024 and thereafter, s224c), for the Homesite titles. The majority of the golf course is expected to be constructed by the issue of the s224c).

Soho Ski Area

- 23 The land owned and controlled by this submitter includes the Blackmans Creek freehold land that extends from the Cardrona Valley Road to the summit of the ridge south of the Cardrona ski field. It includes land zoned rural, with a portion located within the Ski Area Sub-Zone (SASZ). The Soho land is part of the Glencoe pastoral lease land where the Crown has granted a recreation permit for operation of a ski area. All of the recreation permit area held by Soho is located within the (larger) SASZ, as shown below.



- 24 Through an agreement reached in June 2018, Soho Ski Area Ltd sold the ski rights for the Soho Ski Area to Cardrona Alpine Resort Limited (**CARL**). Effectively CARL has the ability to extend the current ski area into the permit area and together CARL and Soho Ski Area Ltd wish to develop the expanded area into an international standard ski resort.
- 25 As with Jacks Point, the SASZs have been identified as an Exception Zone. The operation of the Exception Zone framework for subdivision or development within those areas is addressed in further detail below.
- 26 The Soho land extends beyond the boundaries of the SASZ into the Rural Zone as far as the road boundary with the Cardrona Valley Road. Through

submissions to the District Plan Review, Soho and other parties were successful in establishing a framework to provide for access to ski areas through the rural zone by either Passenger Lift Systems or road access.

27 Soho and the other ski area operators were concerned to protect the ability to gain access to all of the SASZs because of their location and layout being separated from the district's road network by Rural Zoned land. The Council's decision was appealed by many of the ski area operators, including Soho who sought inclusion of provisions to provide for the full extent of the passenger lift infrastructure required to access the SASZs. Following court facilitated mediation and a settlement conference, the Council and parties reached a full settlement on all of the provisions to resolve the appeals, with some matters reserved for determination by the Court. On 15 March 2022, the Environment Court issued its decision resolving the Topic 19 appeals.³ This decision resulted in the following provisions being created or amended within Chapter 21 (Rural Zone):

(a) Replacement of Policy 21.2.6.4, as below

~~Provide for appropriate alternative (non-road) means of transport to and within Ski Area Sub-Zones, by way of passenger lift systems and ancillary structures and facilities.~~

Provide for non-road forms of access to the Ski Area Sub-Zones, by way of passenger lift systems, terminal buildings and stations for passenger lift systems, and ancillary structures and facilities:

a. in locations where there is landscape capacity for that activity (which could include locations where buildings or structures will not be reasonably difficult to see from beyond the boundary of the site in question, in which case Policy 6.3.3.1(b) does not apply); and

b. in a manner that protects the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes by:

i. avoiding adverse effects on landscape values;
and

ii. if avoidance is not practicable due to either the functional or operational needs of the activity, remedying or mitigating any adverse effects.

(b) Changes to Rule 21.4.24, as below

³ Decision No [2022] NZEnvC 30 (Issued 15 March 2022)

	Table 1 – Activities – Rural Zone	Activity Status
	Other Activities	
21.4.24	<p>Passenger Lift Systems not located within a Ski Area Sub-Zone Discretion is restricted to:</p> <ul style="list-style-type: none"> a. <u>whether there is landscape capacity for the Passenger Lift System;</u> b. the impact effects on landscape values from any alignment, earthworks, design and surface treatment, including measures to mitigate <u>landscape such effects including visual quality and amenity values;</u> c. <u>height, size and scale of passenger lift systems;</u> d. the route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes; e. earthworks associated with construction of the Passenger Lift System; f. the materials used, colours, lighting and light reflectance; g. geotechnical matters; h. ecological values and any proposed ecological mitigation works.; i. balancing environmental considerations with operational requirements of Ski Area Activities; j. the positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network. 	RD

- (c) The insertion of a new Rule 21.4.24.A to provide for terminal buildings and stations for Passenger Lift Systems not located within a SASZ, as below.

	<p><u>21.4.24.A</u></p> <p><u>Terminal buildings and stations for Passenger Lift Systems not located within a Ski Area Sub-Zone</u></p> <p><u>Discretion is restricted to:</u></p> <ul style="list-style-type: none"> <u>a. whether there is landscape capacity for the proposal;</u> <u>b. effects on landscape values, including measures to mitigate such effects;</u> <u>c. access and car parking;</u> <u>d. natural hazards;</u> <u>e. height, size and number of buildings;</u> <u>f. building and structure materials used, colours, light reflectance and lighting;</u> <u>g. infrastructure;</u> <u>h. ecological values and any proposed ecological mitigation works;</u> <u>i. consideration of operational requirements;</u> <u>j. the positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub- Zones to the roading network;</u> <u>k. earthworks, landform modification, landscaping and planting, and other mitigation measures;</u> <u>l. the relationship, and scale, of ancillary food and beverage and retail activities relative to the operation of the terminal building or station;</u> <u>m. geotechnical matters.</u> 	RD
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- (d) The insertion of a new Rule 21.4.24.B to provide for ski area access roads not located within a SASZ, as below.

	<p><u>21.4.24.B</u></p> <p><u>Ski Area Sub-Zone access roads not located within a Ski Area Sub-Zone</u></p> <p>Discretion is restricted to:</p> <p><u>a. whether there is landscape capacity for the proposed new access road;</u></p> <p><u>b. effects on landscape values from any alignment, earthworks and design and surface treatment, including measures to mitigate such effects;</u></p> <p><u>c. the route alignment and the whether the access road breaks the line and form of skylines, ridges, hills and prominent slopes;</u></p> <p><u>d. effects on the environment and/or the character of the surrounding rural area (including effects from dust, noise and vibration and effects on visual amenity);</u></p> <p><u>e. natural hazards;</u></p> <p><u>f. ecological values and any proposed ecological mitigation works;</u></p> <p><u>g. consideration of operational requirements;</u></p> <p><u>h. the positive effects arising from providing access to and linking Ski Area Sub- Zones to the roading network;</u></p> <p><u>i. stormwater management;</u></p> <p><u>j. geotechnical matters.</u></p>	RD
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(e) Changes to Rule 21.4.25 to exempt terminal buildings and stations, and ski area access roads, as below.

21.4.25	<p>Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of:</p> <p>a. non-commercial skiing which is permitted as recreation activity under Rule 21.4.22;</p> <p>b. commercial heli skiing not located within a Ski Area Sub-Zone is a commercial recreation activity and Rule 21.4.13 applies;</p> <p>c. Passenger Lift Systems to which Rule 21.4.24 applies;</p> <p>d. <u>Terminal Buildings and Stations for Passenger Lift Systems to which Rule 21.4.A applies;</u></p> <p>e. <u>Ski Area Sub-Zone access roads to which Rule 21.4.B applies.</u></p>	NC
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28 The Court's decision carefully considered the relationship between providing access to ski areas with the protection of landscape values. Whilst this regime explicitly provides for the development of passenger lift systems, buildings and stations within the rural zone in order to gain access to the ski areas, it incorporates a consideration of landscape capacity and the specific measures necessary to protect landscape values through either the avoidance of adverse effects, or where avoidance is not practicable due to functional or operational needs, to remedy or mitigate adverse effects.

29 In this context Soho is concerned to ensure that the landscape schedules have appropriately considered the outcomes of Policy 21.2.6.4 to provide for non-road forms of access to the Ski Area Sub-Zones, by way of passenger lift systems, terminal buildings and stations for passenger lift systems.

Glencoe Station

- 30 The development rights held by Glencoe include two undeveloped residential building platforms, each located on their own title. The balance of the Glencoe land is held in a separate title and includes an existing farm homestead and associated farm buildings.

Exception Zone Framework (EZF)

- 31 The Jacks Point Zone and that part of the Soho land within the Cardona SASZ are identified as Exception Zones and are also located within the PAs for Peninsula Hill and Cardrona Valley.
- 32 The EZF formalises into the Plan what were previously referred to as carve outs for certain zones from the regimes that applied to the ONF/Ls. The theory being that for each of the exceptions zones the provisions were carefully crafted through first schedule processes as part of plan formulation to deliver outcomes that ensure appropriate protection of ONF/Ls, as required by s6(b) of the Act, relative to the land within the Exception Zones. However, as noted by the Environment Court, this assumption cannot extend to what is not contemplated by the particular exception zone.
- 33 Likewise, the Court did not accept there is a sound basis for extending the scope of the carve out to areas that may, in the future, be re-zoned so as to come within one or other of the exception zones.
- 34 The EZF is an important concept to inform both the formulation of the schedules where PAs extend over Exception Zones, and the application of the schedules to activity within Exception Zones. The Court's prescription of the limits of the EZF are captured within provisions 3.1B.5, 3.1B.6 and SO 3.2.5.4, as discussed within Environment Court decisions on Topic 2.2⁴ and Topic 2.6⁵.
- (a) Provision 3.1B.5 establishes that the Exception Zones include the SASZs, the Rural Residential Zone and Rural Lifestyle Zone, the Gibbston Character Zone, and the Jacks Point Zone. Future stages of the District Plan Review are anticipated to result in further additions to this list.

⁴ Para 441 – 451, [2019] NZEnvC 205 (Issued 19 December 2019)

⁵ [2020] NZEnvC 159

- (b) Provision 3.1B.6 specifies a list of the strategic objectives and strategic polices that do not apply to the determination of consent applications within any Exception Zone. They are:
 - a. SO 3.2.1.7.a, SO 3.2.1.8.a, SO 3.2.5.1, SO 3.2.5.2; and
 - b. SP 3.3.2.a, SP 3.3.21.a, SP 3.3.23.a, SP 3.3.29, SP 3.3.30, SP 3.3.31.
- (c) SO 3.2.5.4 provides for subdivision, use of development to the extent provided for by the Exception Zone, but not additional activity that is not provided for by the Exception Zone, whereby landscape values of the ONF/Ls will need to be protected.

SO 3.2.5.4 in each Exception Zone located within or part within Outstanding Natural Features and Outstanding Natural Landscapes, any application for subdivision, use and development is provided for:

- a. *to the extent anticipated by that Exception Zone; and*
- b. *on the basis that any additional subdivision, use and development not provided for by that Exception Zone protects the landscape values of the relevant Outstanding Natural Feature or Outstanding Natural Landscape.*

- 35 It is clear from SO 3.2.5.4 that additional activity “not provided for” by an Exception Zone is required to protect landscape values. However, whether activity not provided within an Exception Zone then benefits from the EZF and is required to protect the values prescribed within any of the PA schedules is unclear.
- 36 The Jacks Point Zone and the Cardrona SASZ are both examples of land that have been identified as Exception Zones and are also part of the wider PAs (for the Peninsula Hill ONF and Cardrona Valley ONL). One key difference between these two examples is that the Jacks Point zone is a standalone zone within Chapter 41, whereas the Ski Area Subzone is a subzone within the Rural Zone Chapter 21.
- 37 SO 3.2.5.2 is the primary policy ‘hook’ that engages the landscape schedules for any new subdivision, use or development. Stated in full SO 3.2.5.2 is:

*Within the **Rural Zone**, new subdivision, use and development is inappropriate on Outstanding Natural Features or in Outstanding Natural Landscapes unless:*

- a. *where the landscape values of Priority Areas of Outstanding Natural Features and Outstanding Natural*

Landscapes are specified in Schedule 21.22, those values are protected; or

- b. where the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are not specified in Schedule 21.22, the values identified according to SP 3.3.45 are protected.*

38 The remaining Strategic Policies establish the process required to identify the landscape values and landscape capacity for the PAs in the landscape schedules, including SP3.3.29, 3.3.33, 3.3.34, 3.3.36 to 3.3.42.

39 None of the policies within Chapter 6 refer to the Landscape Schedules. The broader exception provided through 3.1B.6 flows into Chapter 6 through Policies 6.3.1.2 and 6.3.1.3, as below.

6.3.1.2 Exclude identified Ski Area Sub-Zones and the area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan web mapping application from the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories applied to the balance of the Rural Zone and from the policies of this Chapter related to those categories. (SO 3.1B.5 and 3.1B.6).

6.3.1.3 Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this Chapter related to those categories do not apply unless otherwise stated. (SO 3.1B.5 and 3.1B.6).

40 Provision 3.1B.6 is stated in absolute terms and all activity, whether provided for or not, benefits from the EZF. That means regardless of whether activity is provided for, SO 3.2.5.2 will not apply. On this basis, I cannot establish a policy basis within Chapter 3 or 6 for requiring activity within any Exception Zone to protect the landscape values or landscape capacity listed within the relevant Landscape Schedule. On this basis I have suggested clarification of the application of the schedules to just the Rural Zone, within the preamble text (refer below).

41 I accept that the VIF, as directed through SP 3.3.29, applies to all ONF/Ls and requires the landscape schedules to identify landscape values and landscape capacity for each Priority Area. This creates an anomalous situation where the landscape schedules are required to identify landscape values and landscape capacity for Exceptions Zones but where future activity, including activity not provided for by the Exception Zone, is not required to protect the landscape values specified on the landscape

schedules. In practice, this will not be an issue however as the schedule will include a broader description of all land within it (values and capacity) and where guidance for the application of the schedules to resource consent applications is clearly stated within the PDP.

The formulation of schedules containing Exception Zones

- 42 Based on my analysis above, SP 3.3.29 requires the landscape schedules to identify the landscape values and landscape capacity for all ONF/Ls, including those located within Exception Zones.
- 43 The evidence of Ms Gilbert addresses the overlap between the PA schedules and the Exceptions Zone. At para 5.17, the evidence of Ms Gilbert states that “*the relevant PA schedules have been amended, where required, to acknowledge the landscape values and landscape capacity associated with the Exception Zones parts of the PAs.*”
- 44 The evidence of Mr Bentley provides suggested wording changes for the Peninsula Hill and Cardrona Valley ONL schedules to better distinguish those attributes and therefore the values and landscape capacity which have been recognised as appropriate through within the Exception Zone and that will not detract from the values present.

Application of the schedules to activities within any Exception Zone

- 45 My analysis of the relevant PDP objectives and policies cannot establish a basis for requiring activities requiring resource consent for subdivision, use or development located within any Exception Zone, including activities not ‘provided for’ within the Exception Zone, to have regard to the landscape values and landscape capacity identified in the landscape schedules.
- 46 There is a possibility, however, that in responding to the directive within SO 3.2.5.4 to protect the landscape values of the relevant Outstanding Natural Feature or Outstanding Natural Landscape for any activity not provided for within any Exception Zone, a landscape assessment undertaken for such an activity could refer to the landscape schedules. Whilst this would not be a mandatory requirement it could help to inform any assessment undertaken.
- 47 At paragraphs 9.36 to 9.41 and 9.45 to 9.51, the evidence by Ms Evans sets out her understanding of the application of the landscape schedules to Exception Zones. This analysis forms the basis for changes to the preamble for the landscape schedules. The critical passage within the evidence of Ms Evans is at paragraph 9.40, where she states that the exceptions [provided for the Exception Zones] does not extend to development that s not

provided for within the Exception Zones, in which case all relevant SOs and SPs will apply (SO 3.2.5.4). With respect, that is not what either SO 3.2.5.4 or provision 3.1B.6 states.

48 As detailed above, provision 3.1B.6 is a complete carve out from a range of SOs and SPs, and SO 3.2.5.4 simply requires an activity not provided for within any Exception Zone to protect the values of the ONF/L. I cannot find a policy basis for the findings made by Ms Evans, finding that all SOs and SPs apply to activities not provided for within any Exception Zone.

49 It follows that the statement made below by Ms Evans regarding the operation of the landscape schedules to the SASZs is without foundation.

Where an activity is proposed that is not provided for by the SASZ (in terms of SO 3.2.5.4), all relevant SOs and SPs will be engaged and an assessment against the landscape values and capacity set out in the PA schedules will be required. (para 9.47(c))

50 The analysis of Ms Evans (at para 9.27) finds that SO 3.2.5.2 applies only to land within the Rural Zone. I assume it is for this reason the evidence of Ms Evans finds that with respect to the Jacks Point Zone “*the relevant PA schedule (Peninsula Hill) has been prepared to acknowledge the proximity and inclusion of part of this PA to Jacks Point, and the range of activities enabled by the zone*” and “*the PA schedules could be used to inform an assessment of landscape values and landscape capacity in the (sic) part of the zone that is an ONF, where proposal are not provided for*”.

51 I agree that in the case of activities not provided for by the rules of the Jacks Point the landscape schedules *could* be used to inform a landscape assessment, but as above, that is not mandatory.

Recommended changes to the preamble

52 The application of the landscape schedules to land identified within an Exception Zone is complicated. I agree with the Council’s approach to outline within the preamble to the landscape schedules how the schedules are intended to apply to a range of given circumstances, including importantly within the Exception Zones to aid in the future administration of the PDP. I suggest that the preamble to the schedules set out the role of the landscape schedules for any new subdivision, use or development within the Rural Zone, as follows:

- (a) Except as provided for below, the landscape schedules apply to subdivision, use or development within the Rural Zone Priority Areas identified on the District Planning Maps. (relevant to SO 3.2.5.2)

- (b) The landscape schedules are not required to be considered for any land located within any Priority Area that is an Exception Zone but may be referred to through any landscape assessment undertaken in accordance with SP 3.3.45, as relevant. (refer to 3.1B.5 and 3.1B.6)

Implementation of Landscape Schedules through future consents

- 53 The Topic 2.2 decision frames up the outcomes being achieved through the roles of landscape assessments and landscape capacity assessments, as follows:

[166] In principle, in the development of a district plan, there should be an iterative relationship between landscape assessment and landscape capacity assessment in calibrating the plan's response to ss6(b) and 7(c), RMA as follows:

- (a) landscape assessments serve to elicit values sought to be protected, for s6(b) purposes, or maintained or enhanced for s7(c) purposes so as to help test the settings in the district plan for enablement of subdivision, use and development in ONF/Ls and RCLs;*
- (b) landscape capacity assessments serve to test the capacity of initially identified values to tolerate land use change or development, particularly as may be anticipated over the life of the district plan;*
- (c) both landscape assessment and landscape capacity assessment serve to ensure judgments on what the district plan seeks to protect, for s6(b) purposes, or maintain or enhance for s7(c) purposes, are properly informed*

- 54 In a section entitled "The role of the PA schedules" the evidence of Ms Evans makes two key points relating to the implementation of the schedules:

- (a) The PA schedules are not intended to be a substitute for site-specific assessments.
- (b) The PA schedules apply at a PA level.

Her evidence expands on this, with reference to the notified wording, to state that the landscape attributes and values relate to the priority area as a whole and should not be taken as prescribing the attributes and values of specific sites; a finer grained location specific assessment is required for any plan change or resource consent. In addition, the capacity descriptions are based on the scale of the PA and should not be taken as the capacity of specific sites, across the

PAs there is likely to be variation in capacity which requires consideration through consents applications or plan changes.

- 55 On a related topic, the evidence of Ms Evans addresses questions raised by submitters about the weight to be given to the schedules relative to the site-specific assessments. The evidence of Ms Evan (at 9.100, Page 42) refers to the assessment matters within Chapter 21, at Sections 21.21.1 and 21.21.2.
- 56 In responding to matters raised through submissions, the evidence by Ms Evans for the Council seeks to clarify important issues relating to the application of the schedules to future consents, including the role of any separate landscape assessment.

The role of the landscape schedules

- 57 As outlined above, SO 3.2.5.2 requires new subdivision use or development located within any Rural Zone Priority Area to protect those values specified in the landscape schedule. An assessment of an activity against the values specific in the schedules is therefore required.
- 58 However, SP 3.3.46 directs a further landscape assessment to be undertaken in accordance with SP 3.3.45. I address my understanding of the relationship between the landscape schedules and the landscape methodology below.

The role of the landscape assessment methodology

- 59 SP 3.3.46 directs that the Landscape Assessment Methodology required by SP 3.3.45 is to be implemented when assessing a resource consent application for the subdivision, use or development of land where:
- (a) The application is for a restricted discretionary activity, discretionary or non-complying activity; and
 - (b) The proposal is in relation to land within an ONF/L or gives rise to landscape effects and is on land with Rural Zoning.

- 60 SP 3.3.45 states:

Landscape assessments shall:

- a. *for Outstanding Natural Features and Outstanding Natural Landscapes:*
 - i. *identify landscape attributes and values; and*
 - ii. *assess effects on those values and on related landscape capacity;*

- b. *for Rural Character Landscapes:*
 - i. *define a relevant landscape character area and its wider landscape context;*
 - ii. *identify the landscape character and visual amenity values of that landscape character area and within its wider landscape context; and*
 - iii. *assess effects on that character and those values and on related landscape capacity;*
- c. *in each case apply a consistent rating scale for attributes, values and effects.*

61 SPs 3.3.45 and 3.3.46 are stand-alone directives applying to the stated classes of resource consent across all ONF/Ls and RCLs, regardless of whether land is part of a PA landscape schedule. This gives rise to a question as to whether the landscape assessment required to be undertaken in accordance with SP 3.3.45 addresses the landscape attributes and values, and related capacity independent of, or in addition to, the landscape schedules.

What do the Rural Zone assessment matters say?

62 In a procedural sense, the rural zone assessment matters are relevant also as they establish the relationship to the district-wide objectives and policies, and secondly, incorporate direction on the roles of landscapes assessments and the landscape schedules. The Environment Court's decision on Topic 18 (Rural Zone)⁶ records the outcomes of the wording for the Chapter 21 Assessment Matters. I note that although this decision is a final determination the online version of the PDP has not yet been updated to reflect this decision.

63 The Topic 18 decision added a new section relating to the “Application of the assessment matters”, which clarify that the assessment matters serve to assist the policies, but do not qualify or supplement any policies or rules. In terms of ONF/Ls, and considering landscape values, 21.21.1.1 states:

For the implementation of relevant policies including SP 3.3.2, SP 3.3.21, SP 3.3.23, SP 3.3.29, SP 3.3.30, SP 3.3.31, SP 3.3.43, SP 3.3.45, SP 3.3.46, SP 3.3.49, SP 3.3.51, 6.3.2.7, 6.3.3.1 and 6.3.3.2, 6.3.3.3, 6.3.3.5, 6.3.4.8, 21.2.1, 21.2.1.1, 21.2.1.2, 21.2.1.3, 21.2.1.7, 21.2.1.11, 21.2.9, 21.2.9.1, 21.2.9.2 and 21.2.9.3, in considering a subdivision or development proposal, the Council will have regard to:

⁶ Decision No [2023] NZEnvC 58, issued on 31 March 2023.

- a. *the landscape values identified in Schedule 21.22, where relevant;*
- b. *the landscape values identified in accordance with SP 3.3.43 and SP 3.3.45;*
- c. *whether, and to what extent, the proposal will protect Tangata Whenua values, including Tōpuni or nohoanga.*

Note: The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.

64 This is a useful passage, directly applicable to the role of the Landscape Schedules as part of future consent processes, in that it clarifies and is consistent with the Strategic Objectives and Strategic Policies within Chapter 3 in requiring proposals for subdivision or development to have regard to both the landscape values identified in the landscape schedules, where relevant, and the landscape values identified in accordance with the Landscape Assessment Methodology.

The Councils s42A Report

65 The evidence of Ms Evans for the Council provides an analysis of 'weighting' at paras 9.99 to 9.103, and makes the following findings:

- *There is nothing in the relevant policies that directs that the PA schedules must be afforded more or less weight than other methods such as assessment matter.*
- *The schedules will need to be considered as part of a package of provisions that provide guidance for landscape assessments, taking into account the particular context and circumstances of each proposal.*
- *In terms of site specific assessments, these will also need to be considered in the context of each proposal. The PA schedules will provide guidance or a starting point with respect to identified values, attributes and capacity that site specific assessments can build on.*
- *Given that the PA schedules have been prepared at a PA scale, site specific assessments may be afforded more weight during processing a resource consent or plan change proposal.*
- *I do not consider that specific amendments are required within the PA schedules to state what weight they should be afforded or that site specific assessments should be given more weight, as weighting is a matter for decision-makers to evaluate.*

- 66 I agree with most of this summary, apart from one point relating to ‘site specific’ assessments.
- 67 I agree with the evidence of Ms Evans, there is nothing within the policies directing that the landscape schedules be afforded more or less weight, and that the schedules would need to be considered as part of a package of provisions, taking into account the particular context and circumstances of each proposal. Those findings are consistent with the Topic 18 decision on the rural zone assessment matters requiring the Council to have regard to the landscape values identified in Schedule 21.22, where relevant, and the landscape values identified in accordance with SP 3.3.43 and SP 3.3.45.
- 68 The evidence of Ms Evans identifies the need for ‘site specific’ assessments to occur in association with a proposal. There is no strategic direction provided within the landscape assessment methodology or elsewhere within the PDP that provides a basis for finding that assessment made through this process are “site-specific”. This implies that the landscape assessment being undertaken occurs at the scale of the site. My understand is that one purpose of the Landscape Assessment Methodology is to establish a common basis to standardise how landscape assessments are undertaken, acknowledging that the policies were developed before the New Zealand Institute for Landscape Architects had adopted Te Tangi a te Manu. The suggested additions to the preamble by the Council properly identify that the landscape attributes and landscape values have been identified for the PA as a whole, and that a finer scale location specific assessment will need to occur at the time of consent. I agree with this. In terms of the process, I suggest a slight amendment to this passage to relate this process back to the landscape assessment methodology contains within SP 3.3.43 and 3.3.45.
- 69 For a consent application the nature of the landscape assessments will necessarily have a specific purpose, to assess the effects of a proposed activity, having regard to both the values described within the District Plan (Landscape Schedules) and those values assessed through the separate landscape assessment. The proposed activity will be related to a site, but its effects may extend to the values of the broader landscape within which that site is located.

Evaluation

- 70 By design, the landscape schedules describe the attributes and record the values of the landscape so far as they relate to the identified priority area. Their scope does not extend to the entire landscape, which was a deliberate outcome of the VIF determined by the Court so as to focus efforts on those

areas of the landscape under most pressure. By contrast, the scope of the landscape assessments made in accordance with SP 3.3. 43 and 3.3.45 may therefore incorporate a consideration of attributes and values beyond those identified within the landscape schedules. This is considered a beneficial outcome from the separate Landscape Assessment Methodology in being able to address wider issues outside the scope and area of the identified PAs.

- 71 There are further environmental benefits to having a separate landscape assessment process prescribed in the PDP that is undertaken at the time of making an application for resource consent:
- (a) The statement of the landscape attributes, values and landscape capacity reflect the nature of the environment at a moment in time. Landscapes are dynamic and change over time. Whilst it is important to benchmark values within the District Plan, it is equally important to enable an evaluation of those values to adapt to changing circumstances, land use patterns, natural processes, etc.
 - (b) New activities may occur within or alongside a priority area that undermine the scheduled values across a part of the landscape. It would be important to allow through the consent process a sensible account to be made of such changes.
 - (c) The VIF requires landscape capacity to be assessed based on a list of activities. That list is not exhaustive and there will inevitably be examples of use or development of rural land that does not fit within the scope of the meanings given to the activities used within the schedule. The value in having a separate landscape assessment methodology prescribing the need for assess landscape capacity means there is a safety net in place for those activities not listed.
- 72 I agree with the evidence for the Council that it is important to understand the roles of the landscape schedules, including the further landscape assessments conducted through the landscape assessment methodology, articulated within the preamble to the schedules to assist plan users.
- 73 I suggest that the preamble to the landscape schedules incorporate some guidance on the application of the landscape schedules and the landscapes assessments undertaken in accordance with SP 3.3.43 and SP 3.3.45. The key elements of such guidance should establish that in considering proposals for subdivision, the Council will have regard to:
- (a) The landscape values and landscape capacity identified within Schedule 21.22 (relevant to SO 3.2.5.2.)

- (b) The landscape values and landscape capacity identified in accordance with the landscape assessment methodology set out within SP 3.3.43 and SP 3.3.45
- (c) The assessment matters in 21.21.1, to the extent they implementation the above Policies

Rating of Landscape Capacity

- 74 The Council's evidence supports having a rating system established for Landscape Capacity. The evidence by Ms Gilbert proposes a 5 – point rating system for landscape capacity using the list of activities prescribed through SPs 3.3.38 and SP 3.3.41.
- 75 The evidence of Mr Bentley also supports having a rating system for landscape capacity and proposes a 7 – point rating system based on:
- (a) Internal consistency with the scale adopted within the Wakatipu Basin Rural Amenity Zone; and
 - (b) The scaling system adopted within Te Tangi a te Manu (**TTatM**) for assessing landscape values and landscape effects.

Te Tangi a te Manu

- 76 The evidence of Mr Bentley sets out the meaning of 'capacity' used within TTatM, establishing that generic attributes such as capacity are necessarily imprecise because they estimate an unknown future. TTatM further states that capacity assessments "*can be useful and necessary in area-based' or 'issues-based' assessments, or in comparing alternative routes/locations, but they become redundant once there is a specific proposal and the actual effects can be assessed directly.*"⁷ At 6.4.3, TTatM further cautions against using matrices to measure the significance of effects (and capacity) because landscape values are too complex and varied to reduce to a single parameter, falsely imply that landscape effects can be practically measured, and are an abstraction that introduces an additional chance of error.
- 77 It follows that TTatM provides no guidance on any landscape capacity rating system.

⁷ Para 5.49, page 124, 'Te Tangi a te Manu, Aotearoa New Zealand Landscape Assessment Guidelines' (July 2022)

78 TTatM does however establish a 7-point rating system as a universal scale to describe the magnitude of landscape effects, as shown in the diagram below.

very low	low	low-mod	moderate	mod-high	high	very high
low		moderate			high	

PDP Policy direction

79 The Strategic Policies within the VIF direct identification of landscape capacity, including against a list of activities (as specified in SP 3.3.38). However, they do not provide any direction about the use of any rating systems for landscape capacity, although provision 3.1B.5 provides a definition of ‘landscape capacity’. This definition has been added to through the Environment Court’s decisions on the WBRAZ, as follows:

Landscape capacity

- i. In relation to an Outstanding Natural Feature or Outstanding Natural Landscape, means the capacity of a landscape or feature to accommodate subdivision and development without compromising its identified landscape values;*
- ii. in relation to a landscape character area in a Rural Character Landscape, means the capacity of the landscape character area to accommodate subdivision and development without compromising its identified landscape character and while maintaining its identified visual amenity values;*
- iii. in relation to those parts of the Wakatipu Basin Rural Amenity Zone that are identified in Schedule 24.8 to have Moderate capacity, means the capacity of the landscape character unit to accommodate subdivision and development without compromising its identified landscape character and while maintaining its identified visual amenity values;*
- iv. in relation to those parts of the Wakatipu Basin Rural Amenity Zone that are identified in Schedule 24.8 to have Very Low, Low or Moderate-Low capacity, means the capacity of the landscape character unit and that of the Basin as a whole to accommodate subdivision and development without compromising its identified landscape character and while maintaining its identified visual amenity values.*

The approach taken for the Wakatipu Basin

80 Policy 24.2.1.1X establishes the basis for the Wakatipu Basin Rural Amenity Zone (**WBRAZ**) landscape capacity rating scale, as follows:

Identify in Schedule 24.8 and on the planning maps the landscape capacity of areas outside of the Precinct to absorb subdivision and residential development according to the following rating scale:

- a. Very Low capacity;*
- b. Low capacity;*
- c. Moderate-Low capacity;*
- d. Moderate capacity;*
- e. Moderate-High capacity; and*
- f. High Capacity.*

- 81 Against the cautionary notes provided within TTatM, the Environment Court has adopted and modified the landscape effects rating system for the WBRAZ as a basis for managing landscape capacity. The rating system used in Policy 24.2.1.1X of the WBRAZ excludes the 'Very High' rating, which may be a pragmatic reflection of the extent to which development across the basin is at or close to the threshold of not being able to maintain landscape values. Either way, the WBRAZ landscape capacity rating system and TTatM adopts the same language with respect to the 6 points that are used in the PDP.
- 82 Through the decision of the Environment Court a regime has been created to manage the effects of subdivision use or development on the landscape character and visual amenity values of the Wakatipu Basin based, in part, on landscape capacity ratings. Under this regime any new residential activity is a discretionary activity within those areas of the Wakatipu Basin identified as having moderate capacity, subject to achieving related policies. However, the way in which the landscape capacity rating system is being used in the WBRAZ differs from that required for inclusion within the Rural Zone PA Landscape Schedules.

Evaluation

- 83 Unlike the WBRAZ, the strategic policies, policies, rules and assessment matters for each of the zones affected by the landscape schedules has been determined. The scope of the variation to insert the landscape schedules into the Rural Zone chapter is therefore much more confined.
- 84 However, despite these differences in the use of landscape capacity, the PDP has adopted a landscape capacity rating system. In my view this is of direct relevance to the landscape schedules because the VIF requires landscape capacity to be assessed and recorded for the RCLs, being the statutory equivalent to the WBRAZ i.e. a s7(c) amenity landscape.

- 85 In the absence of district-wide policy direction within the PDP, the formulation of a rating system rests on an approach that can be demonstrated as being efficient and effective in achieving the objectives of the plan having regard to the reasonably practicable options for achieving those objectives.⁸
- 86 In my view the reasonably practical options are:
- (a) To not use a landscape capacity rating system
 - (b) To develop a ‘bespoke’ rating system as recommended by Ms Gilbert
 - (c) To adopt the rating system used within the PDP as part of the WBRAZ
- 87 TatM provides a coherent argument against using matrices to measure the significance of capacity, for the reasons outlined above. The VIF directs that each priority area “*assess and record the related landscape capacity for subdivision, use and development activities*”. It does not strictly mandate formulation of a rating system. What the VIF does require, however, is landscape capacity to be recorded and assessed against a range of potential activities. Having directed this be undertaken those activities have to be rated somehow to meaningfully address the SP. In the context of the VIF developed through the PDP a failure to specify a landscape capacity rating system for the range of specified activities would lead to significant inefficiencies in future consent processes and for this reason it is the least preferred option.
- 88 The Methodology Statement included with the s32 Report explains the rationale for the development of the landscape capacity rating system, including reference to the passages within TTatM. It proposes four terms, as follows:
- some landscape capacity;
 - limited landscape capacity;
 - very limited landscape capacity; and
 - no landscape capacity.

⁸ S32(1), RMA

- 89 In response to submissions, the evidence of Ms Gilbert for the Council recommends the addition of a fifth rating classification for 'very limited to no' landscape capacity.
- 90 The s32 authors record the uncertainty around what a specific land use might entail and have not applied the 7-point rating scale, favouring instead 'less absolute' terminology. In the context of the approach favoured by TTatM I can understand sentiment around the nature of the land use activities and favouring less absolute language. Despite this, the evidence and the resulting schedules identify 'no' landscape capacity. No landscape capacity is a very absolute term and contrasts with the reasoning provided within the methodology.
- 91 I understand that the introduction of a fifth rating classification does not remove the 'no landscape capacity' classification but has resulted in recommended changes to the landscape schedules for some activities in some PAs. The recommendations, however, retain many instances of 'no landscape capacity' being identified for activities, including:

Peninsula Hill ONF PA

- Tourism related activities
- Urban expansion
- Mineral Extraction
- Transport Infrastructure
- Renewable energy generation
- Forestry

West Wanaka ONL PA

- Urban expansion
- Intensive agriculture
- Some forms of mineral extraction
- Renewable energy generation
- Forestry
- Jetties, boatsheds, lake structures and moorings

- 92 The strategic policies of the plan seek to avoid urban development outside of the UGBs and for that reason has some logic, although I don't see that as being a necessary addition to the schedule where such direction is provided elsewhere in the plan, and is not in itself an 'activity'.
- 93 More generally, I do not understand how the TTatM 7-point rating system would not better serve the objectives of the authors of the s32 and the Landscape schedules, as the language used in that system, whilst having a greater number of potential outcomes, still provides an openness to the language i.e. very-low, low, moderate, etc. Notably, the TTatM system does not provide the option for having 'no landscape capacity'.
- 94 In terms of rating landscape values within the PA schedules, the Council has adopted a 7-point rating scale, based on the landscape effects scale used in TTatM.
- 95 Based on the above I consider the adoption of a 7-point rating system, as proposed within the evidence of Mr Bentley, as the most efficient and effective of the options because it is:
- (a) Consistent with the WBRAZ
 - (b) Consistent with the rating system used for Landscape Values
 - (c) Avoids the use of absolute language i.e. 'no landscape capacity'
- 96 Because this system is linked to a known scale, used elsewhere within the PDP it becomes more defensible against other bespoke rating systems, which provide an equivalent outcome to that proposed within the Council's evidence.

Recommended Changes

- 97 I include within **Annexure A** my suggested changes to the preamble to the Landscape Schedules. These suggestions flow from the analysis provided within this evidence.
- 98 In summary, my suggested changes seek to explain the following key matters:
- (a) The rating scale used for the identified landscape values within each PA
 - (b) The rating scale used for Landscape capacity, together with a description of the meaning of each of the 7-point landscape capacity rating

- (c) The application of the landscape schedules to future applications for resource consent
- (d) The role of the landscape assessment methodology
- (e) The application of the Rural Zone PA landscape schedules to land located within an Exception Zone

Dated this 11th day of September 2023

Chris Ferguson

Annexure A

**Suggested changes to the preamble text for
the Rural Zone PA schedules 21.22**

Key:

Normal text – notified version of Schedule 21.22 (June 2022)

Black underline and ~~strike through~~ text – recommended amendments based on submissions (August 2023)

21.22 Schedule of Landscape Values: Outstanding Natural Feature and Outstanding Natural Landscape Priority Areas

Preamble

Commented [BG1]: Added for clarity

Purpose

Commented [BG2]: Added for clarity

Schedule 21.22 identifies and describes 24 Outstanding Natural Features (ONF) or Outstanding Natural Landscape (ONL) priority areas (PA), as set out in Strategic Policy 3.3.36.

The PA Schedules are a tool to assist with the identification, at an appropriate landscape scale, of the landscape attributes, the landscape values that are to be protected within each priority area PA and related landscape capacity, in accordance with SP 3.3.37. They contain both factual information and evaluative content and are to inform plan development and plan implementation processes.

Commented [BA3]: Typographical correction

Commented [BA4]: Typographical correction

Commented [BG5]: Additional text addresses (at least in part) issues raised in:
OS 169.5 CPC Trustee Ltd, Timely Giving Ltd and Black Peak Farming Ltd.
OS146.4 Alpine Deer NZ LP.
OS 137.9 Robert and Pamela McRae.
OS 173.6 Motuihe Trustees Ltd.
OS 167.4 Chilcotin Holdings Limited.
OS 172.5 Arthurs Point Trustees Limited.
OS172.5 Arthurs Point Trustees Limited.
OS172.7 Arthurs Point Trustees Limited.
OS 167.4 Chilcotin Holdings Limited.

The description of each Rural Zone priority area PA must be read in full. Within the ONF/Ls, each PA description identifies the key physical, sensory, and associative attributes that contribute to the values of the Feature or Landscape being protected, rates those attributes, and records the related landscape capacity for subdivision use and development, in accordance with SP 3.3.38.

as a whole, expresses at a high level, the landscape values and the attributes on which those values derive.

Landscape Attributes and Values **Application of the schedules to subdivision or development**

Commented [BG6]: Added for clarity

Schedule 21.22 will be relevant to resource consent applications for the subdivision, use or development of land within the Rural Zone Priority Areas, where:

Commented [BG7]: Added for clarity

Commented [BG8]: Added for clarity

i. the application is for a restricted discretionary, discretionary or non-complying activity (SP 3.3.46)

Commented [BG9]: OS 67 Julian Haworth on behalf of UCESI.

ii. any part of the proposal is located on land within the Rural Zone and within an identified PA, as shown on the planning maps (SO 3.2.5.2).

iii. But are not required to be considered for proposals located on land located within any Priority Areas that is also an Exception Zone (refer to 3.1B.5 and 3.1B.6) or not located within the Rural Zone.

The following provisions are relevant in considering proposals for subdivision, use or development, the Council:

a) The landscape values and landscape capacity identified within Schedule 21.22, where relevant

August 2023 Amended in Response to Submissions

b) The landscape values and landscape capacity identified in accordance with the landscape assessment methodology set out within SP 3.3.43 and SP 3.3.45

c) The assessment matters in 21.21.1, to the extent they implement the above Policies

Rating of Landscape Values

For the purpose of Schedule 21.22, landscape values are assessed and described using a seven – point scale, as below.

very low	low	low-mod	moderate	mod-high	high	very high
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and should not be taken as prescribing the attributes and values of specific sites within the PA.

The PA Schedules refer to plant and animal pests. Plant and animal pests are a detractor from negative landscape value. Few, if any of Aotearoa’s ONF/Ls are pristine, with varying levels of modification evident (including pests). This means that landscape restoration and enhancement (which can include the management of pests) is typically a highly desirable outcome. The inclusion of pest information is intended as helpful information to guide appropriate future landscape management within the PA. (For example, where a resource consent or plan change is proposed within the PA, the proposal or provisions may seek to specifically address the management of pests).

The landscape attributes and values identified, relate to the PA as a whole. Given the relatively high level landscape scale of the PAs, a finer grained location-specific assessment of landscape attributes and values would will need to be undertaken through the landscape assessment methodology (Refer SP 3.3.43 and SP 3.3.45) typically be required for plan development or plan implementation purposes (including any plan changes in association with any proposal for subdivision, use or development or resource consent applications). The PA Schedules are not intended to provide a complete record and other location specific landscape values may be identified through these finer grained assessment processes.

Landscape Capacity

The landscape capacity ratings used in the PA Schedules, which are described below, are intended to reflect the capacity of the landscape or feature to accommodate various types or forms of development, without compromising the identified landscape values. The definition of landscape capacity applied in the PA Schedules is set out in 3.1B.5(b).

The capacity ratings, and associated descriptions, are based on an assessment of each PA as a whole, and should not be taken as prescribing the capacity of specific sites within a PA. As noted above, proposals for subdivision or development are required to assess landscape capacity in accordance with the landscape assessment methodology prescribed within SP 3.3.43 and 3.3.45.

The descriptions in the PA Schedules are relatively 'high level' and focus on describing potential outcomes that would likely be appropriate within each PA. These descriptions are not a replacement for any relevant policies, rules or standards in the District Plan, and are intended to provide guidance only. Landscape capacity is not a fixed concept, and it may change over time as development occurs or landscape characteristics change. In addition, across each PA there is likely to be variation in landscape capacity, which will require detailed consideration through the landscape and assessment methodology SP 3.3.43 and SP 3.3.45) through future plan changes or resource consent applications.

Commented [BG10]: Added to assist clarity.

Commented [BG11]: OS 166.27 Real NZ.
OS 82.12 Blair Devlin on behalf of Milstead Trust.
OS67.19 Julian Haworth.
OS 182.9 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 182.4 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 182.25 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 114.9 Woodlot Properties Ltd.
OS 145.3 Jon Waterston.
OS 142.6 Hansen Family Partnership.
OS 145.6 Jon Waterston.
OS 85.7 Sipka Holdings Ltd.
OS 85.8 Sipka Holdings Ltd.
OS 138.4 Off Road Adventures Queenstown Limited.
OS 138.9 Off Road Adventures Queenstown Limited.
OS 118.8 Robina Bodle Trust.
OS 84.9 Sir Robert Stewart.
OS 84.10 Sir Robert Stewart.
OS 174.9 Redemption Song LLC.
OS 174.10 Redemption Song LLC.
OS 36.2 Suzanne Rose.

Commented [BG12]: Grammatical correction.

Commented [BG13]: Added for clarity

Commented [BG14]: Grammar correction.

Commented [BG15]: Added for clarity.

Commented [BA16]: OS6.2 Michael & Bridget Davies and others

For the purposes of the PA Schedules, landscape capacity is described using a seven – point the following scale, consistent with that applied to landscape values (refer above). Table 1 below describes landscape capacity against the seven – point rating scale.

Table 1: Landscape capacity ratings used within Schedule 21.22.

Landscape Capacity Rating Scale	Description
Very Low	There are very limited or no opportunities for development. Any development possible would be very occasional, exceptional, unique and very small-scale/ discrete and that it continues to protect all identified landscape values.
Low	Development has the potential to generate considerable adverse effects on landscape values and/or available views. Occasional, small-scale development may be possible, providing it has regard to the character and sensitivity of the landscape and continues to protect all identified landscape values.
Low - Moderate	A moderate to low amount of development could be accommodated in limited situations, whilst still protecting all identified landscape values. The landscape is close to its development capacity, therefore sensitively located and designed development would be appropriate.
Moderate	New development may be accommodated provided it has regard to the character and sensitivity of identified landscape values. There are landscape constraints and therefore the key landscape values must be retained and enhanced.
Moderate - High	The landscape is able to accommodate moderate to high amounts of development, providing it has regard to the character and the sensitivity of landscape values. Certain landscape features and views in the area may require protection.
High	The area is able to accommodate a high amount of new development, providing it has regard to the character and the sensitivity of landscape values.
Very High	The area is able to accommodate a substantial amount of new development, providing it has regard to the character and the sensitivity of landscape values.

five terms:

Some landscape capacity: typically this corresponds to a situation in which a careful or measured amount of sensitively located and designed development of this type is unlikely to materially compromise the identified landscape values.

Limited landscape capacity: typically this corresponds to a situation in which the landscape is near its capacity to accommodate development of this type without material compromise of its identified landscape values and where only a modest amount of sensitively located and designed development is unlikely to materially compromise the identified landscape values.

Very limited landscape capacity: typically this corresponds to a situation in which the landscape is very close to its capacity to accommodate development of this type without material compromise of its identified landscape values, and where only a very small amount of sensitively located and designed development is likely to be appropriate.

Very limited to no landscape capacity: typically this corresponds to a situation in which the landscape is extremely close to its capacity to accommodate development of this type without material compromise of its identified landscape values, and where only an extremely small amount of very sensitively located and designed development is likely to be appropriate.

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No landscape capacity: typically this corresponds to a situation where development of this type is likely to materially compromise the identified landscape values.

It is intended that the use of this five-tier landscape capacity terminology, along with a description of the characteristics that are likely to frame development that is appropriate (from a landscape perspective), and the description of the landscape attributes and values of the PA will assist in providing high-level guidance with respect to the scale, location and characteristics of each landuse type that will protect landscape values in each PA-ONF/L.

The capacity descriptions are based on the scale of the priority area and should not be taken as prescribing the capacity of specific sites; landscape capacity may change over time; and across each priority area there is likely to be variations in landscape capacity, which will require detailed consideration and assessment through consent applications.

The PA schedules have been prepared to reflect that the PA mapping extends beyond the Rural Zone. The application of the PA schedules is as follows:

- Other than the Ski-Area Sub-Zone (see below), the PA schedules apply (as relevant) to any proposal requiring resource consent in the Rural Zone, including the Rural Industrial Sub-Zone.
- The PA schedules apply (as relevant) to any activity in the Ski-Area Sub-Zone that is not provided for by that sub-zone.
- The PA schedules do not directly apply to proposals in other zones, but may inform landscape assessments for proposals involving any land within a PA.

Landscape Capacity - Activities listed in Policy 3.3.38

Landscape capacity within each PA has been assessed against a range of activities, in accordance with SP 3.3.38.

Those activities, where relevant, listed are intended to have the same meaning as that defined term is defined within Chapter 2. Not all activities are defined and there is a deliberate openness to the language to allow for landscape assessments to apply, as necessary, to the context required for any particular proposal. Where an activity is not defined by Chapter 2, the following meanings apply:

- Tourism related activities:** the use of land or buildings to provide services and entertainment for people who are visiting a place for pleasure, has the same meaning as 'Resort' in Chapter 2.
- Urban expansions** means:
 - a change from a rural activity to urban development; or
 - a change (including any proposed change) in zoning to an urban zone, including any change to the urban growth boundary or any other zone changes (or proposed changes) that would provide for urban development.
- Intensive agriculture:** has the same meaning as 'Factory Farming' in Chapter 2.
- Mineral extraction:** has the same meaning as 'Mining Activity in Chapter 2.
- Farm scale quarries:** means mining of aggregate for farming activities on the same site.
- Renewable energy generation:** has the same meaning as Renewable Electricity Generation and Renewable Electricity Generation Activities in Chapter 2.
- Forestry:** has the same meaning as Forestry Activity in Chapter 2.
- Rural living:** has the same meaning as rural living in Chapter 3 section 3.5B.5.

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Commented [BG17]: OS 166.27 Real NZ.
OS 82.12 Milstead Trust.
OS67.19 Julian Haworth.
OS 182.9 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 182.4 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 182.25 Jeremy Burdon, Jo Batchelor and Andrea Donaldson.
OS 114.9 Woodlot Properties Ltd.
OS 145.3 Jon Waterston.
OS 142.6 Hansen Family Partnership.
OS 145.6 Jon Waterston.
OS 85.7 Sipka Holdings Ltd.
OS 85.8 Sipka Holdings Ltd.
OS 138.4 Off Road Adventures Queenstown Limited.
OS 138.9 Off Road Adventures Queenstown Limited.
OS 118.8 Robina Bodle Trust.
OS 84.9 Sir Robert Stewart.
OS 84.10 Sir Robert Stewart.
OS 174.9 Redemption Song LLC.
OS 174.10 Redemption Song LLC.
OS 36.2 Suzanne Rose.

Commented [BA18]: OS84.7, OS89.1, OS113.7, OS113.8, OS119.4, OS129.2, OS129.3, OS130.1, OS133.6, OS133.10, OS153.13 and others

Commented [CF19]: Oxford English Dictionary

Commented [BA20]: OS121.4 Andrew Donaldson and others
Note there are multiple submissions seeking alignment clarity regarding terminology used in the schedules)

The range of land use activities addressed in the capacity section of the PA Schedules corresponds to the series of activities [prescribed through SP 3.3.38](#)~~known to be of relevance at the time of the drafting of the schedules~~. It is acknowledged that this does not span the full array of land use activities that may be contemplated in the PAs over time. In the case of a future application for a land-use activity that is not addressed in a PA Schedule, an assessment of landscape attributes, values and capacity applying the principles set out in 3.3.43, 3.3.45 and 3.3.46 would be required.